

In the United States District Court  
for the Southern District of Illinois

Mohamed R. al-'Owhali,		No. <u>25-235-NJR</u>
Plaintiff,		
v.		CIVIL RIGHTS COMPLAINT
Warden Daniel Sproul, and J. Hughes, RN,		under 28 U.S.C. § 1331 (Federal Prisoner)
Defendants.		Jury Trial Requested

1. Parties: Plaintiff Mohamed R. Al-'Owhali, #42371-054, is currently incarcerated at USP Florence High, P.O. Box 7000, Florence, Colorado 81226. Defendant Daniel Sproul ("Warden Sproul") is the Warden of FCI Marion<sup>1</sup>, P.O. Box 2000, Marion, Illinois 62959. Defendant J. Hughes ("Nurse Hughes") is an RN ("registered nurse") at FCI Marion, P.O. Box 2000, Marion, Illinois 62959.
2. The Defendants are sued in their individual capacities; the relief sought is compensatory, punitive, and nominal damages.
3. Jurisdiction: The Court's subject matter jurisdiction over the allegations in this Complaint is based on 28 USC § 1331, because the claims for relief arise under the Religious Freedom Restoration Act ("RFRA") 42 U.S.C. § 2000bb-1.
4. Venue: Venue is proper in the Southern District of Illinois under 28 USC § 1391(b) because a substantial part of the acts or omissions that give rise to Plaintiff's claims occurred in the Southern District of Illinois.
5. Nature of the Action: Warden Sproul and Nurse Hughes knowingly, intentionally, and maliciously violated my religious rights by forcefully breaking my sacred religious fasts on several occasions,

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<sup>1</sup> USP Marion was redesignated as FCI Marion on April 4, 2024.

imposing a substantial burden on me and my exercise of my religion, acts prohibited by the RFRA.

#### BACKGROUND FACTS

6. Between December 21, 2020, and about late November or early December 2021, I was housed in the Special Housing Unit ("SHU") range of the Communications Management Unit (the "CMU") at USP Marion in Illinois.
7. All the violations alleged below were committed against me at that location, under conditions of restrictive confinement, including the loss of commissary.
8. I am a Muslim prisoner with sincerely held Islamic beliefs. I was born in Liverpool, England.
9. In 2001, I was convicted of terrorism charges related to the 1998 U.S. Embassy Bombings in East Africa. I was sentenced to life imprisonment plus 40 years and sent from MCC New York to the USP Florence Administrative Maximum ("ADX") the supermax prison in Colorado. In October 2015, I was transferred to the CMU at USP Marion. In December 2021, I was transferred back to the ADX again. In December 2023, I was transferred to USP Florence High.
10. When I was in the ADX Florence initially, I was housed in H-Unit with Muslims and non-Muslims, and all of us were subject to the Special Administrative Measures ("SAMs"). The SAMs—severe restrictions on an inmate's communication and conditions of confinement—are imposed by the U.S. Attorney General.
11. Throughout my life in prison, and especially so when I was housed in H Unit at the ADX, I have used various legally allowed means against what by all accounts is harsh and illegal restrictions and practices imposed on me by the government. These include talking and communicating

with various BOP officials, filing administrative remedy complaints, suing the government, and conducting hunger strikes.

12. I only go on hunger strikes after all other means have failed to resolve my problem. Before I begin, several factors generally exist to justify going on a hunger strike, including (a) the high level of the importance to me of the issue involved; (b) my assessment that the issue involves a right of great necessity to me, the deprivation of which is recognized as a violation of the Constitution or the law; (c) the refusal or unreasonable failure of the BOP officials to resolve the issue administratively; and (d) my assessment or strong reasonable belief that without a hunger strike, such violation will continue or even worsen.
13. As a sincere Muslim, I am divinely required to value and respect my life and well-being and am prohibited from intentionally harming myself. I have always tried my best to fulfill that religious requirement. I resort to a hunger strike when it's clearly and completely necessary—always after all other means of resolving my legitimate grievances have failed.
14. I have never engaged in a hunger strike for its own sake or for any another purpose than resolving the issues explained above.
15. A hunger strike is not a prohibited act under 28 C.F.R. § 541.3 or the prohibited acts found in BOP Program Statement 5270.09, *Inmate Discipline Program*.
16. A prisoner's hunger strike is regulated under 28 C.F. R. § 549.60 and by the BOP under Program Statement 5562.05, *Hunger Strikes*.
17. According to the Program Statement, the expected results of this program are:
  - a. The health and welfare of any inmate on a hunger strike will be monitored.
  - b. Food and beverages will be offered to inmates regularly.

c. When an inmate's life or health is threatened, involuntary medical treatment will be administered.

18. Medical staff shall ordinarily perform the following procedures upon initial referral of an inmate on a hunger strike:

Measure and record height and weight;

Take and record vital signs;

Urinalysis;

Psychological and/or psychiatric evaluation;

General medical evaluation;

Radiographs as clinically indicated; and

Laboratory studies as clinically indicated.

19. When as a result of inadequate intake or abnormal output, a physician determines that the inmate's life or health will be threatened if treatment is not initiated immediately, the physician shall give consideration to involuntary medical treatment of the inmate. The decision to force treatment upon the inmate is a medical decision, preferably by a written physician's order, with potential legal implications.

20. Health Services and Food Service staff may offer alternative beverages, including liquid nutritional supplements, if authorized by the physicians. Any beverages other than drinking water must be documented (e.g. BP-S292) and that information relayed to Health Services staff. Acceptance of liquids alone should not be documented as accepting a meal.



21. When I was housed in H Unit at ADX Florence, occasionally I would agree with medical staff to drink the nutritional supplement to avoid force feeding for various reasons, including religious reasons, for example during the whole month of Ramadan in 2002. The medical staff provided me with the nutritional supplement before dawn and after sunset in order not to interrupt my religious observation of the Ramadan fast.
22. My religion requires me to observe certain acts of worship regardless of my condition. The acts include the five daily obligatory prayers.
23. Besides my daily prayers, I have maintained other acts of worship, such as fasting, in virtually every given period of my life. Apart from fasting the holy month of Ramadan, I join millions of Muslims worldwide, fasting on different days of the week as well as fixed dates determined according to the Islamic lunar calendar.
24. Fasting the 9<sup>th</sup> day of the 12<sup>th</sup> month of the Islamic calendar, called the day of Arafah, and the 9<sup>th</sup> and 10<sup>th</sup> days of the 1<sup>st</sup> month of the Islamic calendar (the 10<sup>th</sup> day is called Ashura) are important examples. Other examples include fasting on Monday and Thursday of each week, and fasting the “White Days,” which are the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> days of each Islamic month.
25. Throughout my entire life, as far back as I can remember, I have kept the fasts of Arafah and Ashura and other sacred days. I have tried to avoid anything that might interrupt my fasts during those sacred days, including during my hunger strikes. However, because I am not in control of conditions of confinement, and because prison authorities are unpredictable in creating their endless restrictions—and their failure to resolve problems with good faith—at times I have been forced into a hunger strike close to those sacred days. That is exactly what happened in 2021.

26. When that happens, as it did in 2021, the medical staff and I agree that I will drink the necessary nutritional supplement and provide the samples that medical staff requires. In return, medical staff agrees to allow me to fulfill my religious duties without interruption.

27. Through the mutual agreement that produced my own as well as the staff's objectives, at the time I've always managed fasting in the religiously sacred days. However, those spiritually and religiously motivated acts of worship were intentionally and maliciously interrupted in 2021 by Warden Sproul and Nurse Hughes. Through that intentional and malicious interruption, they violated my religious rights guaranteed by 42 U.S.C. 2000bb(1)a, as will be further detailed below.

CLAIM ONE: VIOLATION OF MY RIGHTS UNDER THE RFRA BY WARDEN SPROUL BASED ON HIS  
DECISION TO FORCEFULLY DISRUPT AND BREAK MY FASTING

28. I incorporate here by reference the above facts ¶¶ 1-27.

29. This claim is based on allegations that Warden Sproul knowingly, intentionally, and maliciously violated my religious rights under the RFRA by deciding that he and his staff would forcefully break my fasts on several occasions, imposing a substantial burden on me and my religion, prohibited by the RFRA.

30. In early June 2021, I declared a hunger strike due to my strong belief, supported by several months of serious violations of my rights by staff, that the authorities in USP Marion were conspiring to coercively force me out of my religion or to murder me. In addition, the authorities had also refused to seriously address my legitimate concerns even after I completed the administrative remedy grievance procedure. As a last resort, I found it necessary to begin a hunger strike.

31. On June 12, 2021, I had completed 45 “missed meals” and the first evaluation was conducted on June 13.
32. On June 30, 2021, Clinical Director Dr. Pass, after careful review of the Hunger Strike Guidelines, felt that I was in medical need of refeeding that day, to avoid organ failure and other medical complications. I was force fed 474 mL (two containers of Ensure) on a daily basis from that time on.
33. As the day of Arafah, July 19, 2021, approached, I explained to the medical staff that I wanted to drink the nutritional supplement the evening prior to my fast to avoid breaking my fast during the day of Arafah. Medical staff forwarded my request to the Clinical Director, Dr. Pass to ascertain how it would be medically acceptable to avoid the force feeding during the day of Arafah.
34. The weekend before the day of Arafah, Nurse Moulton showed me the memo Dr. Pass had written authorizing that if I consumed two containers of Ensure during the day before Arafah, and two containers on the evening of the day before Arafah, there would be no need to force feed me during the day of Arafah.
35. The evening before Arafah, I drank the two additional containers of Ensure in front of the nurse.
36. On the early morning of July 19, the day of Arafah, Nurse Moulton took my vital signs and medically assessed me and informed me that because I did drink the Ensure and based on the Clinical Director’s order there would be no force feeding for me that day.
37. But later that morning, the Use of Force team arrived at my cell and proceeded to extract me and take me for a force feeding. I was force fed by Nurse Hughes, who knew that he was violating my religious practice. After the procedure, Nurse Hughes explained to me that Dr. Pass

was overruled by Warden Sproul, and that the decision to force feed me was not medical but to create mental distress by leveraging my religious commitment to push me off my hunger strike.

38. Warden Sproul expressed to me on multiple occasions, that he will do whatever works to get things done including violating my religious rights. He said so, as I expressed to him that it is quite obvious that the way they treat Muslims and Islam in the CMU clearly fits the criteria of prejudice and bigotry compared with the way they perceive to be bigotry and prejudice to other religions. For example, I emphasized to him that in the incident report that I received, my religious identity was used against me to label Muslims as a “disruptive and illegal group.” Also, I gave him another example with the way they treated Islamic scripture and religious books; I told him that at one time, they banned the Noble Quran and they banned a book of hadith, arguing that the Islamic ancient scripture regulates war and orders society contrary to their modern standards—yet I and other inmates receive by mail the Mishnah Torah. I also showed him the attached Exhibits A and B detailing the nature of the Jewish Halakhah and law as it was summarized by Maimonides, for example:

- a. stabbing the womb to kill the fetus before execution of women, Ex. A, pg. 6
- b. the gruesome punishments of stoning, strangling, burning, decapitation, Ex. A, pg. 7
- c. the death penalty for consensual sex and blasphemous and other speech, Ex. A, pg. 8; cursing one’s father and mother, the wayward and rebellious son, and a person who disgraced the Sabbath, id.
- d. the employment of a *kipah*, a narrow place that is his height, where he cannot lay down. He is given meager portions of bread and water until his digestive

tract contracts, and he becomes ill. Afterward, we feed him barley until his stomach bursts, id. This is the punishment for the person (a repeat offender) who eats illegal fats, blood, or leavening during Passover or Yom Kippur, or sleeps with a woman during her menstruation, Ex. A, pg. 9

e. the court's authority to administer lashes or execute without evidence, Ex. A, pg. 10

f. A person who has his case adjudicated by a gentile judge is considered blasphemy, the punishment of which is death by stoning, Ex. A, pg. 11

g. the prohibition against making or offering mercy to a non-Jew, Ex. A, pg. 12

h. the prohibition against saving them or rendering assistance when they are in danger, id.

i. the commandment to eradicate Jewish traitors, *minnim* and *apikorsim*, and to cause them to descend to the pit of destruction, since they cause difficulty to the Jews and sway the people from God. Here Maimonides gave as an example, "as did Jesus of Nazareth and his students, and Tzadok, Baithos, and their students ...." id.

j. the commandment to deal with the person who denies the oral law, and the denial of the divinity of the Torah and those who inform on their fellow Jews and apostate, Ex. A, pp. 13-14. Maimonides said there is no need for witnesses, warnings, or a judge for them; instead, whoever kills them, performs a great commandment. At this point, I emphasized to Warden Sproul that this

commandment is not an abstract commandment, but for individual, immediate use

- k. Ex. A, pg. 16, the commandment of indiscriminate killing of men, women, and children in a war which Israel considers a war of defense. I emphasized to Warden Sproul that this commandment is being used in furthering crimes against the innocent men, women, and children of Palestine and could be used by a prisoner to encourage someone on the outside to do that
- l. the commandment to enslave conquered people after a peaceful settlement and raping women captives, Ex. A, pp. 17-18
- m. the execution of a non-Jewish woman after being raped by a Jewish male, including a toddler of 3 years old or more, as long as the Jewish male is 9 years old or more. Maimonides justified the execution because she caused a Jew to be involved in an unseemly act as in the law with regard to an animal, Ex. A, pg. 20

39. After I showed all of that and emphasized to him that they did not prevent me from receiving these books, in fact, they wouldn't dare to because they would be labeled as antisemitic. He said, you know you are right, we will not prevent them. In fact, more than that, if you renounced your religion, kept your beard, and converted to hard core ultra-orthodox Judaism, believing in all of that and believing in killing Palestinians including women and children, the BOP will consider that a form of rehabilitation, remove your terrorist status and lower your security classification. He said, you don't have to take my word for it, you know what I'm telling you is common sense. So you need to face reality of the awkward position you are in. In the American universe, your religion is perceived as a security threat, and I believe that you agree

with me; this too is common sense. And because of that, a lot of politicians and influencers advocate the removal of the Islamic books from the BOP. And advocate for the different treatment for Muslims, and the Islamic religion, as well as Islamic religious practices. So as things stand, down the road if remain who you are you will be subject to abuse; you will be set up around people who want to kill you, and you will be framed. That is the environment that you are in. This will also will give me more leverage against you compared to other inmates, and I will not hesitate to use all the tools available to me to get my job done. So he said, unlike other inmates, I could use removing your religious books as a way to force you to cooperate or stop your religious activity as I stopped the group prayer after the Moon incident<sup>2</sup>. So I have the leverage to use your religion to put you in the SHU in the first place because as far as I'm concerned, you are influential because you lead the prayer so you should learn to prevent such incidents and if you don't do so, you will be punished for it even if you didn't do it as I know for sure. And you need to learn that your hunger strike is disturbing to my operation as far as I am concerned, and you need to learn from my style that I know how to drive you off your hunger strike including using your religion, which I know is the important thing to you since I have known you for quite a long time.

40. Warden Sproul was completely right about knowing me, as he stated above. Sproul and I had known each other since he was the Unit Manager in H Unit at the ADX. From that official position, Sproul observed my sincere belief and commitment to Islam and its religious practices, including my regular fasting.

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<sup>2</sup> The incident was the subject of an Incident Report which landed the plaintiff in the SHU.

41. I reminded Warden Sproul that my hunger strike does not violate any law, BOP regulation, or BOP Program Statement. At the same time, it must be clear, in his position as the Warden, that abusing religious rights for the purpose which he stated is an egregious violation of the Constitution and the law. He stated that he understands that this is a violation “in the law books” but I couldn’t stop him and cannot have anything against him in a court of law.
42. After August 19, 2021, the day when they violated my fast, Warden Sproul came to my cell and stated, I told you that I could use your religion against you, now in case you try to exercise your right to fast again, make sure to do what I’m telling to do, which is to stop your hunger strike.
43. Under the direct leadership, instruction, and supervision of Warden Sproul, Nurse Hughes did the actual force feeding that broke my sacred fast. Hughes stated that Warden Sproul ordered the force feeding—overruling Clinical Director Dr. Pass’s medical decision—and that the force feeding was not based on a medical judgment or done out of medical necessity.
44. USP Marion authority disrupted, violated my sacred fasting on at least eight to ten different occasions, three of which are among the rarest and most Islamically sacred days. Those three days are the day of ‘Arafat, which falls on the 9<sup>th</sup> day of the 12<sup>th</sup> month of the Islamic calendar, and the 9<sup>th</sup> and 10<sup>th</sup> days of the 1<sup>st</sup> month of the Islamic calendar. In 2021, the days fell on July 19 and August 17-18. The other days that staff violently violated my fasts were Mondays and Thursdays, the days of each week that I also fast.
45. On all those occasions, staff violently violated my fasts through forced involuntary feedings.
46. Under correct Islamic guidance, one breaks his or her fast by eating or drinking any nutritious substance.



47. Under Islamic guidance, one's fast is broken when such substances enter the mouth, throat, stomach, or blood veins.
48. The force feeding was carried by inserting a feeding tube into my nose, down my throat and into my stomach, delivering the nutritional supplement directly to my stomach. That process violated my sacred fasting.
49. The above force feeding was not carried out due to medical necessity. It was based solely on Warden Sproul's malicious and evil intent—as he had already told me that he was going to violate my religion.
50. That malicious and evil intent was also confirmed by Nurse Hughes, who actually force-fed me on July 19. Hughes said that the order to force feed me when I was on a religious fast (despite the previous agreement to avoid that) came directly from Warden Sproul, who decided to ignore and disregard Dr. Pass's memo stating that if I drank the nutritional supplement the previous evening, there would be no force feeding the next day. Hughes also told me that the force feeding was not based on medical judgment or medical necessity.
51. All my fasts that Warden Sproul and other CMU Marion staff maliciously and violently disrupted and invalidated were highly religious in nature and on each of those occasions, Sproul and his staff imposed a substantial burden on me, my religion, and my ability to follow and practice my sincerely held Islamic belief.
52. Warden Sproul was completely malicious because he'd known me for many years as a serious and sincere Muslim who takes his religion seriously. He intentionally and with premeditation violated my religion and at the same time disregarded the law and regulations he admitted that he was fully aware of.

CLAIM TWO: VIOLATION OF MY RIGHTS UNDER THE RFRA BY NURSE HUGHES BASED ON HIS  
DECISION AND ACTIONS TO ACTUALLY CARRY OUT THE FORCE FEEDING

53. I incorporate by reference the facts in ¶¶ 1-52.

54. Claim two is about the violation of my rights under the RFRA by Nurse Hughes, the CMU Marion staff member who put in practice Warden Sproul's maliciously motivated decision to interrupt my religiously motivated fasting. Hughes did so by leading the actual force-feeding act, and thus, violently violated my fast.

55. Hughes forcefully fed me in the way described earlier at ¶48.

56. Hughes disrupted my fasting with perfect knowledge that such force feeding was not based on medical judgment or necessity and didn't come from the doctor, but rather from Warden Sproul.

57. Hughes also told me, upon my complaining to him regarding that unprofessional conduct, that he knew that it was wrong to violate my religious sacred activity for the sole purpose of disruption, especially after Dr. Pass, the Clinical Director, concluded that I shouldn't be force-fed. He said that all he was concerned with is doing what he's asked to do, going home, and collecting his paycheck.

58. Hughes told me that he understands that the law does not allow him to force feed me except for medical necessity which was not present on July 19, and that violating my fast is a violation of the law. Having said that, he acknowledged that the Warden had the leverage against him when he had the discretion to discipline him for disobeying his order, and there will be no chance for either one of them to suffer consequences of these violations, and he will not suffer consciously because he believes my religion is a false religion and a vain endeavor.

59. Nurse Hughes' personal role in the above alleged violation is of highest importance here; even though it was Warden Sproul himself who hatched the above violation. Sproul could only achieve that improper goal through medical staff, such as Nurse Hughes, who disregarded the law and their professional ethics. Had Nurse Hughes declined to perform such a maliciously motivated act, Sproul wouldn't have accomplished his improper desire, unless he prevailed on another medical professional who was ready to abusively use his profession to violate my statutory guaranteed rights.

60. No one forced Hughes to commit the violation he committed against me. He did so willingly and with full knowledge that it was both incorrect legally and improper ethically.

61. For the sake of clarification: My two claims and allegations against Warden Sproul and Nurse Hughes are not about the force feeding itself, per se. Rather, the above allegations are about the purpose of such force feedings on the one hand, and their intended impact on me and my religion on the other hand. As it has been shown above, the force feedings were solely intended to disrupt and violate my religiously motivated fasting. The feedings had nothing to do with medical necessity, medical judgment. Otherwise, I have never previously complained about the mere act of force-feeding me during hunger strikes. I had hundreds of force-feedings before my hunger strike in 2021. But I never complained against them. Because there were at least, to some extent, legitimate medical reasons behind them.

## INJURIES

62. Warden Sproul's and Nurse Hughes' malicious acts which resulted in violating my sacred fasting on those sacred, rare days, caused me irreparable spiritual and emotional injury. Spiritually: their maliciously motivated acts disrupted the rare opportunity of fasting on those days,

especially the three days: the Day of Arafah and the 9<sup>th</sup> and 10<sup>th</sup> day of the first month of the Islamic calendar. The days they maliciously violated can never be replaced. In addition, because this is the first time in my entire life that I missed the fasting of those great days, and hence, the divine reward from my Creator, the defendants' acts left a deep mark on my heart that forever will remain irreversible. The defendants' action pushed me into conscious entanglement that I am incapable of freeing myself from. The defendants' acts extensively increased my existing depression and depression-related issues; increased my anxiety, lack of concentration, nightmares, etc.; and subjected me to strong feelings of shame, humiliation, and worthlessness.

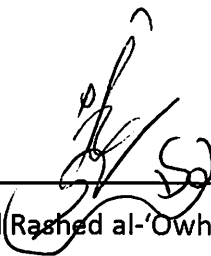
#### REQUEST FOR RELIEF

Wherefore, I respectfully request that this Court grant the following:

- A. Award me compensatory damages jointly and severally against both defendants
- B. Award me punitive damages against both defendants
- C. Award me nominal damages against both defendants
- D. Award me the filing fees as well as other costs including but not limited to mailing, copying, and all other costs
- E. In case an attorney is hired or appointed, or otherwise volunteers to assist me in this case, in addition to any other professional for the same purpose, the court should award the appropriate fees or payment for such an attorney or professional
- F. All other awards that the Court deems appropriate

#### CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

  
\_\_\_\_\_  
Mohamed Rashed al'Owhali

#42371-054

USP Florence High

P.O. Box 7000

Florence, CO 81226

2-12, 2025  
Date



Manhattan, NY 10011

42371054

U.S.p. Florence high  
PO BOX 7000  
Florence Co 81226



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AL-'OWHALI v. SPROUL, ET AL.

EXHIBIT A



<b><u>KEY TO QUADRANT LABELS .....</u></b>	<b><u>5</u></b>
<b><u>THE RAMBAM'S INTRODUCTION TO THE MISHNEH TORAH .....</u></b>	<b><u>5</u></b>
EXHIBIT PAGE 1 QUADRANT C .....	5
MOSES TRANSCRIBED THE ENTIRE TORAH .....	5
EXHIBIT PAGE 1 QUADRANT A .....	5
MOSES CONVEYED THE EXPLANATION OF THE TORAH, THE MITZVAH, ORALLY .....	5
EXHIBIT PAGE 4 QUADRANT B, A .....	5
MAIMONIDES DESCRIBES CURRENT SITUATION .....	5
EXHIBIT PAGE 4 QUADRANT A .....	5
MISHNEH TORAH IS A COMPREHENSIVE WORK ENCOMPASSING ENTIRE ORAL LAW .....	5
EXHIBIT PAGE 4 QUADRANT D .....	6
STUDY OF WRITTEN LAW FOLLOWED BY MISHNEH TORAH SUFFICES TO COMPREHEND ENTIRE ORAL LAW .....	6
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 12 .....</u></b>	<b><u>6</u></b>
EXHIBIT PAGE 5 QUADRANT B .....	6
EXECUTION OF PREGNANT WOMAN .....	6
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 14 .....</u></b>	<b><u>6</u></b>
EXHIBIT PAGE 5 QUADRANT C .....	6
FOUR TYPES OF EXECUTION .....	6
EXHIBIT PAGE 5 QUADRANT D .....	6
WITNESSES KILL CONVICTED PERSON WHO FIGHTS FOR HIS LIFE IN ANY MANNER THEY CAN .....	6
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 15 .....</u></b>	<b><u>7</u></b>
EXHIBIT PAGE 6 QUADRANT C .....	7
STONING .....	7
EXHIBIT PAGE 6 QUADRANT D .....	7
BURNING, DECAPITATION, STRANGULATION, HANGING .....	7
EXHIBIT PAGE 7 QUADRANT B .....	7
PEOPLE EXECUTED BY STONING, BURNING, DECAPITATION, AND STRANGLING .....	7
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 18 .....</u></b>	<b><u>8</u></b>
EXHIBIT PAGE 7 QUADRANT D .....	8
LASHES, WHO IS COMPELLED TO ENTER A KIPAH .....	8
EXHIBIT PAGE 8 QUADRANT A .....	8
WHEN THE COURT DOES NOT METE OUT PUNISHMENT, INSTEAD THE ZEALOUS SLAY THE PERSON .....	8
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 19 .....</u></b>	<b><u>8</u></b>
EXHIBIT PAGE 8 QUADRANT B .....	8
OFFENSES PUNISHABLE BY KERAIT, LASHES .....	9
EXHIBIT PAGE 8 QUADRANT D --- PAGE 10 QUADRANT B .....	9
168 OFFENSES PUNISHABLE BY LASHES .....	9
<b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 24 .....</u></b>	<b><u>10</u></b>

<b>EXHIBIT PAGE 10 QUADRANT D .....</b>	<b>10</b>
<b>COURT'S AUTHORITY TO LASH/EXECUTE ON ITS OWN PEROGATIVE .....</b>	<b>10</b>
<b>EXHIBIT PAGE 11 QUADRANT A, B.....</b>	<b>10</b>
<b>COURT'S AUTHORITY ON ITS OWN PREROGATIVE IN OTHER ISSUES.....</b>	<b>10</b>
 <b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 26 .....</u></b>	 <b><u>11</u></b>
<b>EXHIBIT PAGE 11 QUADRANT D .....</b>	<b>11</b>
<b>PERSON WHO HAS JUDGMENT ADJUDICATED BY GENTILE JUDGE/COURT.....</b>	<b>11</b>
<b>EXHIBIT PAGE 12 QUADRANT A, B.....</b>	<b>11</b>
<b>EXECUTION OF BLASPHEMERS.....</b>	<b>11</b>
<b>EXHIBIT PAGE 12 QUADRANT C.....</b>	<b>11</b>
<b>EXECUTION OF THOSE WHO LEAD INHABITANTS OF JEWISH CITY ASTRAY/THOSE WHO ARE LEAD ASTRAY .....</b>	<b>11</b>
 <b><u>AVODAT KOCHAVIM - CHAPTER TEN .....</u></b>	 <b><u>11</u></b>
<b>EXHIBIT PAGE 13 QUADRANT A, B.....</b>	<b>11</b>
<b>CONDUCT WITH IDOLATERS, TRAITORS, CONVERTS.....</b>	<b>11</b>
 <b><u>TESHUVAH - CHAPTER THREE.....</u></b>	 <b><u>12</u></b>
<b>EXHIBIT PAGE 13 QUADRANT C, D.....</b>	<b>12</b>
<b>INDIVIDUALS (MINIM &amp; EPICURSIM) OF GREAT WICKEDNESS, NO PORTION IN WORLD TO COME .....</b>	<b>12</b>
 <b><u>SANHEDRIN VEHA'ONASHIN HAMESURIN LAHEM - CHAPTER 11 .....</u></b>	 <b><u>13</u></b>
<b>EXHIBIT PAGE 14 QUADRANT D .....</b>	<b>13</b>
<b>LAWS WHICH PERTAIN TO A MESIT .....</b>	<b>13</b>
 <b><u>AVODAT KOCHAVIM - CHAPTER FIVE .....</u></b>	 <b><u>13</u></b>
<b>EXHIBIT PAGE 15 QUADRANT A .....</b>	<b>13</b>
<b>EXECUTION OF A MADIACH AND A MESIT .....</b>	<b>13</b>
<b>EXHIBIT PAGE 15 QUADRANT A .....</b>	<b>14</b>
<b>EXECUTION OF A MESIT .....</b>	<b>14</b>
 <b><u>AVODAT KOCHAVIM - CHAPTER NINE.....</u></b>	 <b><u>14</u></b>
<b>EXHIBIT PAGE 15 QUADRANT C.....</b>	<b>14</b>
<b>WHEN TRANSACTIONS ARE FORBIDDEN WITH CANAANITES.....</b>	<b>14</b>
 <b><u>AVODAT KOCHAVIM - CHAPTER TWO.....</u></b>	 <b><u>14</u></b>
<b>EXHIBIT PAGE 16 QUADRANT D .....</b>	<b>14</b>
<b>EXECUTION OF A JEW WHO SERVES FALSE GODS .....</b>	<b>14</b>
 <b><u>MAMRIM - CHAPTER 3 .....</u></b>	 <b><u>15</u></b>
<b>EXHIBIT PAGE 17 QUADRANT A .....</b>	<b>15</b>
<b>EXECUTION OF A PERSON WHO DOES NOT ACKNOWLEDGE VALIDITY OF THE ORAL LAW.....</b>	<b>15</b>
 <b><u>MELACHIM UMILCHAMOT - CHAPTER 5.....</u></b>	 <b><u>15</u></b>
<b>EXHIBIT PAGE 17 QUADRANT C, D.....</b>	<b>15</b>

WAR WHICH IS A MITZVAH .....	15
EXHIBIT PAGE 18 QUADRANT B .....	16
WHEN ONE IS FORBIDDEN/ALLOWED TO LEAVE ERETZ YISRAEL.....	16
<b><u>MELACHIM UMILCHAMOT - CHAPTER 6.....</u></b>	<b>17</b>
EXHIBIT PAGE 18 QUADRANT D .....	17
SUBJUGATION OF CONQUERED PEOPLES AFTER PEACEFUL SETTLEMENT.....	17
EXHIBIT PAGE 19 QUADRANT A, B, C .....	17
IF PEACEFUL SETTLEMENT REFUSED, MALES PAST MAJORITY KILLED, AND WOMEN AND CHILDREN ENSLAVED.....	17
<b><u>MELACHIM UMILCHAMOT - CHAPTER 8.....</u></b>	<b>18</b>
EXHIBIT PAGE 19 QUADRANT D .....	18
SOLDIER MAY RAPE A GENTILE WOMAN .....	18
EXHIBIT PAGE 20 QUADRANT A, B.....	18
PRIEST MAY HAVE RELATIONS INITIALLY WITH YEFAT TO'AR WHO ACCEPTS SEVEN MITZVOTH; MARRIAGE FORBIDDEN AFTER CONVERSION .....	18
EXHIBIT PAGE 20 QUADRANT C.....	18
EXECUTION OF YEFAT TO'AR WHO DOESN'T ABANDON IDOL WORSHIP; LAW ON TREATIES .....	18
<b><u>MELACHIM UMILCHAMOT - CHAPTER 9.....</u></b>	<b>18</b>
EXHIBIT PAGE 21 QUADRANT A .....	18
EXECUTION OF GENTILES WHO WORSHIP FALSE GODS .....	18
<b><u>BERACHOT - CHAPTER TEN .....</u></b>	<b>18</b>
EXHIBIT PAGE 21 QUADRANT C, D.....	18
INVOCATIONS IN DIFFERENT SITUATIONS.....	19
EXHIBIT PAGE 22 QUADRANT C, D.....	19
INVOCATIONS IN DIFFERENT SITUATIONS.....	19
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER TWELVE.....</u></b>	<b>19</b>
EXHIBIT PAGE 23 QUADRANT A, B .....	19
EXECUTION OF GENTILE WOMAN AFTER RAPE BY A JEWISH MALE, INCLUDING MINORS OF THREE YEARS OF AGE, AS LONG AS JEWISH MALE IS NINE YEARS OR OLDER.....	19
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER SEVENTEEN.....</u></b>	<b>19</b>
EXHIBIT PAGE 23 QUADRANT C.....	19
CLASSES OF WOMEN FORBIDDEN TO ALL PRIESTS AND A HIGH PRIEST .....	19
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER EIGHTEEN.....</u></b>	<b>20</b>
EXHIBIT PAGE 23 QUADRANT D .....	20
MEANING OF ZONAH .....	20
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER EIGHTEEN.....</u></b>	<b>20</b>
EXHIBIT PAGE 24 QUADRANT A, B.....	20
MEANING OF ZONAH (DUPLICATE).....	20

<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER EIGHTEEN .....</u></b>	<b><u>20</u></b>
EXHIBIT PAGE 24 QUADRANT D .....	20
NATURE OF INTERCOURSE THAT CAUSES FEMALES OF AT LEAST THREE YEARS OLD TO BECOME A ZONAH .....	20
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER ONE .....</u></b>	<b><u>20</u></b>
EXHIBIT PAGE 25 QUADRANT A .....	20
PUNISHMENTS APPLICABLE TO ADULTS AND MINORS (FEMALES AT LEAST THREE YEARS AND A DAY AND MALES AT LEAST NINE YEARS AND A DAY) .....	20
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER ELEVEN .....</u></b>	<b><u>21</u></b>
EXHIBIT PAGE 25 QUADRANT C .....	21
IMMERSION REQUIRED FOR WOMAN TO ASCEND FROM RITUAL IMPURITY (MIKVEH) .....	21
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER FOURTEEN .....</u></b>	<b><u>21</u></b>
EXHIBIT PAGE 25 QUADRANT D .....	21
WOMEN CONVERTS SIT IN MIKVEH .....	21
<b><u>SEFER KEDUSHAH - ISSUREI BIAH - CHAPTER FOURTEEN .....</u></b>	<b><u>21</u></b>
EXHIBIT PAGE 26 QUADRANT B .....	21
SEE PREVIOUS ENTRY .....	21
EXHIBIT PAGE 26 QUADRANT C, D .....	21
GENTILE RELATIVES OF CONVERTS NOT CONSIDERED RELATIVES AFTER CONVERSION. CONVERT MAY MARRY OR HAVE RELATIONS WITH HIS MOTHER OR HIS MATERNAL SISTER .....	21
<b><u>MISHNEH TORAH - ISHUT - CHAPTER THREE .....</u></b>	<b><u>21</u></b>
EXHIBIT PAGE 27 QUADRANT A .....	21
FATHER'S RIGHTS OVER MINOR FEMALE AT BIRTH AND AT THREE YEARS AND A DAY .....	21
<b><u>MISHNEH TORAH - ISHUT - CHAPTER FOUR .....</u></b>	<b><u>22</u></b>
EXHIBIT PAGE 27 QUADRANT B .....	22
RULES FOR GIVING FEMALES IN MARRIAGE .....	22
<b><u>MISHNEH TORAH - ISHUT - CHAPTER TWELVE .....</u></b>	<b><u>22</u></b>
EXHIBIT PAGE 27 QUADRANT C .....	22
PRIVILEGES OF THE HUSBAND TO THE DETRIMENT OF HIS WIFE .....	22
<b><u>MISHNEH TORAH - ISHUT - CHAPTER TWENTY-ONE .....</u></b>	<b><u>22</u></b>
EXHIBIT PAGE 28 QUADRANT A .....	22
WIFE MUST WORK ON BEHALF OF HER HUSBAND; HE RECEIVES ALL THE PROCEEDS .....	23
EXHIBIT PAGE 28 QUADRANT C .....	23
WIVES MAY BE COMPELLED TO PERFORM TASKS WITH A ROD .....	23
<b><u>MISHNEH TORAH - ISHUT - CHAPTER TWENTY-TWO .....</u></b>	<b><u>23</u></b>
EXHIBIT PAGE 22 QUADRANT D .....	23
PROPERTY RIGHTS OF HUSBAND OVER WIFE IN LIFE AND AT DEATH .....	23

## Key to Quadrant Labels

A	B
C	D

## CHAYENU MAGAZINE

### The Rambam's Introduction to the Mishneh Torah

#### *Exhibit Page 1 Quadrant C*

Moses transcribed the entire Torah

Moses, our teacher, personally transcribed the entire Torah before he died. He gave a Torah scroll to each tribe and placed another scroll in the ark as a testimonial, as [Deuteronomy 31:26] states: "Take this Torah scroll and place it [beside the ark...] and it will be there as a testimonial."

#### *Exhibit Page 1 Quadrant A*

Moses conveyed the explanation of the Torah, the Mitzvah, orally

"The mitzvah" - i.e., the explanation of the Torah - he did not transcribe. Instead, he commanded it [verbally] to the elders, to Joshua, and to the totality of Israel, as [Deuteronomy 13:1] states: "Be careful to observe everything that I prescribe to you." For this reason, it is called the Oral Law.

Even though the Oral Law was not transcribed, Moses, our teacher, taught it in its entirety in his court to the seventy elders. Elazar, Pinchas, and Joshua received the tradition from Moses.

#### *Exhibit Page 4 Quadrant B, A*

Maimonides describes current situation

At this time, we have been beset by additional difficulties, everyone feels [financial] pressure, the wisdom of our Sages has become lost, and the comprehension of our men of understanding has become hidden. Therefore, those explanations, laws, and replies which the Geonim composed and considered to be fully explained material have become difficult to grasp in our age, and only a select few comprehend these matters in the proper way.

Needless to say, [there is confusion] with regard to the Talmud itself - both the Jerusalem and Babylonian Talmuds - the *Sifra*, the *Sifre*, and the *Tosefta*, for they require a breadth of knowledge, a spirit of wisdom, and much time, for appreciating the proper path regarding what is permitted and forbidden, and the other laws of the Torah.

#### *Exhibit Page 4 Quadrant A*

Mishneh Torah is a comprehensive work encompassing entire Oral Law

Therefore, I girded my loins - I, Moses, the son of Maimon, of Spain. I relied upon the Rock, blessed be He. I contemplated all these texts and sought to compose [a work which would include the conclusions] derived from all these texts regarding the forbidden and the permitted, the impure and the pure, and the remainder of the Torah's laws, all in clear and

concise terms, so that the entire Oral Law could be organized in each person's mouth without questions or objections.

To summarize: [The intent of this text is] that a person will not need another text at all with regard to any Jewish law. Rather, this text will be a compilation of the entire Oral Law, including also the ordinances, customs, and decrees that were enacted from the time of Moses, our teacher, until the completion of the Talmud, as were explained by the Geonim in the texts they composed after the Talmud.

*Exhibit Page 4 Quadrant D*

Study of written law followed by Mishneh Torah suffices to comprehend entire Oral Law. Therefore, I have called this text, *Mishneh Torah* ["the second to the Torah with the intent that] a person should first study the Written Law, and then study this text and comprehend the entire Oral Law from it, without having to study any other text between the two.

## **Sanhedrin veba`Onashin haMesurin lahem - Chapter 12**

*Exhibit Page 5 Quadrant B*

*Execution of pregnant woman*

4. After a defendant has been convicted, we do not delay the matter, but instead execute him immediately. Even if a woman is pregnant, we do not wait until she gives birth. Instead, we give her a blow against the womb so that the fetus will die first. If, by contrast, she is already in the throes of labor, we wait until she gives birth.

## **Sanhedrin veba`Onashin haMesurin lahem - Chapter 14**

*Exhibit Page 5 Quadrant C*

*Four types of execution*

Four types of execution were given to the court: stoning, burning, decapitation with a sword, and strangulation.

Stoning and burning are explicitly mentioned in the Torah. Moses our teacher taught that whenever the Torah mentions the death sentence without any further description, the intent is strangulation. When a person kills a colleague, he should be decapitated. Similarly, the inhabitants of a city that goes astray are executed by decapitation.

*Exhibit Page 5 Quadrant D*

*Witnesses kill convicted person who fights for his life in any manner they can*

8. When a convicted person fights for his life and it is impossible for the court to have him bound so that he can be executed in the manner in which he is obligated to die, the witnesses should kill him in any manner they can, for he has been sentenced to death. No one else, however, has the right to kill him first.

For this reason, if the hands of the witnesses are cut off, the convicted person is released.

If, however, at the outset, the witnesses did not have hands, the convicted person should be executed by others.



## Sanhedrin veba`Onashin haMesurin lahem - Chapter 15

### *Exhibit Page 6 Quadrant C*

#### *Stoning*

1. How is the mitzvah of stoning carried out? Four cubits from the place of execution, we remove the clothes of the person to be stoned; we do, however, cover his sexual organ in front. A woman is not executed naked. Instead, she is allowed to wear one cloak.

The place of execution was two storeys high. The convicted person ascends there with his hands tied, together with his witnesses. One of the witnesses pushes him at his loins from behind, he falls over, landing on his heart on the ground. If he dies because of this, they have fulfilled their obligation, for Exodus 19:13 states: "Or he will be cast down or stoned," creating an equation between a person who has a stone fall upon him with one who himself falls on the earth.

If he does not die after this fall, the witnesses pick up a stone that is so large it requires two people to carry it. The second witness lets go and the first casts the stone on the convicted person's heart. If he dies because of this, they have fulfilled their obligation. If not, he should be stoned by the entire Jewish people, as Deuteronomy 17:7 states: "The hand of the witnesses shall be raised up against him first to execute him, and the hand of the entire nation afterwards."

### *Exhibit Page 6 Quadrant D*

#### *Burning, decapitation, strangulation, hanging*

3. The mitzvah of executing a person by burning is performed as follows: The convicted is placed in fertilizer until his knees. A firm cloth is placed within a soft cloth and they are wound around his neck. The two witnesses are positioned on either side and each pull the cloths toward himself until the convicted opens his mouth. Tin, lead, and the like are melted down and then poured into his mouth. The molten metal descends and burns his innards.

4. The mitzvah of decapitation is performed as follows: We cut off [sic] his head with a sword as the kings do.

5. The mitzvah of executing a person by strangulation is performed as follows: The convicted is placed in fertilizer until his knees. A firm cloth is placed within a soft cloth and they are wound around his neck. Each of the two witnesses pulls the cloths toward himself until the convicted expires.

6. It is a positive commandment to hang a blasphemer and an idolater after they have been executed, as implied by Deuteronomy 21:23: "A person who is hung is cursing God." This refers to the blasphemer. With regard to an idolater, Numbers 15:30 states: "He blasphemes God."

### *Exhibit Page 7 Quadrant B*

#### *People executed by stoning, burning, decapitation, and strangling*

10. The Torah mentions 18 people who are executed by stoning. They are: a) a person who engages in relations with his mother, b) with his father's wife, c) his daughter-in-law, d) a maiden who was consecrated, e) a man involved in homosexual relations, f) a man who sodomizes an animal, g) a woman who has relations with an animal, h) a blasphemer, i) an idolater, j) a person who gives his descendants to *Molech*, k) a person who divines with an ov, l) a person who divines with an *yidoni*, m) a person who entices others to worship idols, n) the people who lead a city to idol worship, o) a sorcerer, p) a person who desecrates

the Sabbath, q) a person who curses his father or his mother, and r) a wayward and rebellious son.

11. There are 10 people who are executed by burning: a) a priest's daughter who commits adultery, b) a person who has relations with his daughter, c) with his daughter's daughter, d) with his son's daughter, e) with his wife's daughter, f) with the daughter of his wife's daughter, g) with the daughter of his wife's son, h) with his mother-in-law, i) with the mother of his mother-in-law, and j) with the mother of his father-in-law. The latter prohibitions apply if the man has relations with them during his wife's lifetime. After his wife's death, these relations are punishable by *kerait* alone like other incestuous relationships.

12. There are two who are decapitated: a murderer, and the inhabitants of a city enticed to idolatry.

13. There are six who are executed by strangulation: a) an adulterer, b) a person who wounds his father or mother, c) a person who kidnaps a fellow Jew, d) a rebellious elder, e) a false prophet, and f) a person who prophesies in the name of a false deity. Thus the court executes individuals for a totality of 36 prohibitions.

## Sanhedrin veba`Onashin haMesurin lahem - Chapter 18

*Exhibit Page 7 Quadrant D*

*Lashes, who is compelled to enter a kipah*

4. The following rules apply when a person receives lashes in a court because of the violation of a prohibition punishable by *kerait*, and then received lashes a second time for the violation of that same prohibition - e.g., he ate forbidden fat, received lashes for it, and then ate forbidden fat again and received lashes for it. If he eats such fat a third time, he is not given lashes. Instead, he is compelled to enter a *kipah*, a narrow place that is his height where he cannot lie down. He is given meager portions of bread and water until his digestive tract contracts and he becomes ill. Afterwards, we feed him barley until his stomach bursts.

5. When a person violates a prohibition punishable by *kerait* or by execution by the court and received a warning beforehand, if he nodded his head, or remained silent and did not acknowledge the warning, we do not execute him, as explained above, nor do we give him lashes. If he repeats this transgression, receives a warning, nods his head, or remains silent, we neither execute him or give him lashes. If he repeats this transgression a third time, receives a warning, even though he merely nodded his head or remained silent, he is placed in a *kipah* until he dies.

*Exhibit Page 8 Quadrant A*

*When the court does not mete out punishment, instead the zealous slay the person*

6. When a person steals one of the sacrificial vessels from the Temple, curses God's name using the name of a false divinity, or has relations with an idolatrous gentile woman, the court does not deal with this matter. Instead, the zealous strike them. Whoever slays them merits. Similarly, when a priest served in the Temple while ritually impure, his priestly brethren would not bring him to court. Instead, the young priests take him out of the Temple Courtyard and crack his head open with logs.

## Sanhedrin veba`Onashin haMesurin lahem - Chapter 19

*Exhibit Page 8 Quadrant B*



*Offenses punishable by keraït, lashes*

1. There are a total of 21 negative commandments that are punishable by *keraït*, but which are not punishable by execution by the court, for which lashes are administered. They are:

- i) a person who has relations with his sister;
- ii) ...with his father's sister;
- iii) ...with his mother's sister;
- iv) ...with the sister of his wife;
- v) ...with his brother's wife;
- vi) ...with the wife of the brother of his father;
- vii) ...with a woman in the *niddah* state;
- viii) a person who eats forbidden fat;
- ix) ...blood;
- x) ...leaven on Passover;
- xi) ...on Yom Kippur;
- xii) a person who performs forbidden labor on Yom Kippur;
- xii) a person who partakes of sacrificial meat after the designated time;
- xiv) ...of sacrificial meat disqualified as *piggul*;
- xv) ...of sacrificial meat while ritually impure;
- xvi) a person who enters the Temple Courtyard while ritually impure;
- xvii) a person who slaughters a consecrated animal outside the Temple;
- xviii) a person who burns a consecrated animal as a sacrifice outside the Temple;
- xix) a person who prepares the anointing oil for personal use;
- xx) a person who anoints himself with the anointing oil for his own benefit
- xi) a person who prepares the incense offering for his personal use;

2. There are a total of 18 negative commandments that are punishable by death by the hand of heaven, whose transgression involve a deed, for which lashes are administered.

*Exhibit Page 8 Quadrant D --- Page 10 Quadrant B*

*168 offenses punishable by lashes*

2. There are a total of 168 negative commandments that are neither punishable by *keraït*, nor by execution by the court, for which lashes are administered.

(do we want to include relevant excerpts from exhibit pages 9-10?)

## **Sanhedrin veba`Onashin haMesurin lahem - Chapter 24**

*Exhibit Page 10 Quadrant D*

*Court's authority to lash/execute on its own prerogative*

4. A court has the authority to administer lashes to a person who is not required to receive lashes and to execute a person who is not liable to be executed. This license was not granted to overstep the words of the Torah, but rather to create a fence around the words of the Torah.

When the court sees that the people have broken the accepted norms with regard to a matter, they may establish safeguards to strengthen the matter according to what appears necessary to them...

An incident occurred where they had a man lashed for engaging in relations with his wife under a tree. And an incident occurred concerning a person who rode on a horse on the Sabbath in the era of the Greeks and they brought him to the court and had him stoned to death. And an incident occurred and Shimon ben Shetach hung 80 women on one day in Ashkelon. All of the required processes of questioning, cross-examination, and warnings were not followed, nor was the testimony unequivocal. Instead, their execution was a directive for that immediate time according to what he perceived as necessary.

5. Similarly, at any time, and in any place, a court has the license to give a person lashes if he has a reputation for immorality and people gossip about him, saying that he acts licentiously.

*Exhibit Page 11 Quadrant A, B*

*Court's authority on its own prerogative in other issues*

6. Similarly, at all times, a court has the prerogative to declare money belonging to others as ownerless. It may destroy those funds or give them to whomever they see fit to close any breaches in the faith and to strengthen its observance or to penalize a stubborn and difficult person. The Book of Ezra 10:8 states: "Whoever fails to come in three days according to the advice of the officers and the elders will have all of his property confiscated." From this we learn that when a court declares property ownerless, their declaration is effective.

7. Similarly, a judge may apply a ban of ostracism or excommunication to a person to whom these measures would not ordinarily be applied according to his perception of what is necessary at that time. He should state that he is ostracizing him or excommunicating him on his own conviction and should publicize his transgression in public. This is indicated by Judges 5:23: "'Curse Meroz,' said the angel of G-d. 'Curse him. Those who dwell with him are cursed, because they did not come to the aid of God's people.'"

8. Similarly, a judge may enter into a controversy with a person with whom it is necessary to enter into controversy, cursing him, having him beaten, having his hair pulled out, and compelling him to take an oath to God against his will so that he will not perform or that he did not perform a specific action, as Nechemiah 13:25 states: "I entered into controversy with them; I cursed them; I beat people among them; I tore their hair out, and I made them take an oath to God."

9. Similarly, he may have a person's hands and feet bound. He may imprison him and have him pushed to the ground and dragged, as Ezra 7:26 states: "Judgment will be speedily

administered to him, to be executed, to be uprooted, to be punished by a loss of property, and to be imprisoned."

10. All of the above measures should be applied according to the judge's perception that it is appropriate that the violator be punished in this manner or the situation at large requires it.

All of his deeds should be for the sake of heaven and the honor of people at large should not be light in his eyes. For consideration of their honor overrides the observance of a Rabbinic prohibition....

## **Sanhedrin veba`Onashin haMesurin lahem - Chapter 26**

*Exhibit Page 11 Quadrant D*

*Person who has judgment adjudicated by gentile judge/court*

7. When any person has a judgment adjudicated by gentile judges and their courts, he is considered a wicked person. It is as if he disgraced, blasphemed, and lifted up his hand against the Torah of Moses our teacher. This applies even if their laws are the same as the laws of the Jewish people. This is indicated by Exodus 21:1: "These are the judgments that you shall place before them." "Before them" and not before gentiles; "before them" and not before ordinary people.

*Exhibit Page 12 Quadrant A, B*

*Execution of blasphemers*

Therefore, a person who worships false gods is to be hanged, just as one who blasphemes against God is hanged. Both are executed by being stoned to death. Therefore, I have included the laws applying to a blasphemer in *Hilchot Avodat Kochavim*. Both deny the fundamental principle [of Jewish faith].

9. [The fact that] a blasphemer retracts his statements in the midst of speaking is of no consequence. Rather, once he utters blasphemy in the presence of witnesses, he is [liable for execution by] stoning.

Should a person curse God's name with the name of a false god, the zealous may strike him and slay him

*Exhibit Page 12 Quadrant C*

*Execution of those who lead inhabitants of Jewish city astray/those lead astray*

1. Those who lead [the inhabitants of] a Jewish city astray are executed by stoning even though they themselves did not worship a false deity, but [merely] proselytized to the inhabitants of their city until they worshiped it. The inhabitants of the city that has been led astray are executed by decapitation if they worshiped a false deity or accepted it as a god. What is the source that serves as a warning against proselytizing on behalf of a false deity? "Let not [the name of another deity] be heard through your mouth."

## **Avodat Kochavim - Chapter Ten**

*Exhibit Page 13 Quadrant A, B*

*Conduct with idolaters, traitors, converts*

1. We may not draw up a covenant with idolaters which will establish peace between them [and us] and yet allow them to worship idols, as [Deuteronomy 7:2] states: "Do not establish a covenant with them." Rather, they must renounce their [idol] worship or be slain.

It is forbidden to have mercy upon them, as [Deuteronomy, *ibid.*] states: "Do not be gracious to them." Accordingly, if we see an idolater being swept away or drowning in the river, we should not help him. If we see that his life is in danger, we should not save him.

To whom do the above apply? To gentiles. It is a mitzvah, however, to eradicate Jewish traitors, *minnim*, and *apikorsim*, and to cause them to descend to the pit of destruction, since they cause difficulty to the Jews and sway the people away from God<sup>96</sup>.

{As did Jesus of Nazareth and his students, and Tzadok, Baithos, and their students, may the name of the wicked rot.}

Footnote 96: The continuation of the halachah was omitted from the standard published text because of censorship. Hence, we placed it in brackets.

2. From the above, we can infer that it is forbidden to offer medical treatment to an idolater even when offered a wage. If, however, one is afraid of the consequences or fears that ill feeling will be aroused, one may treat them for a wage, but to treat them free is forbidden.

[With regard to] a *ger toshav*, since we are commanded to secure his well-being, he may be given medical treatment at no cost.

3. It is forbidden to sell them homes and fields in *Eretz Yisrael*. In Syria, one may sell them homes, but not fields.

One may rent them homes in *Eretz Yisrael*, provided that a neighborhood [of idolaters] is not established. Fewer than three [homes] does not constitute a neighborhood. It is, however, forbidden to rent them fields. In Syria, one may rent them fields.

## Teshuvah - Chapter Three

*Exhibit Page 13 Quadrant C, D*

*Individuals (Minim & Epicursim) of great wickedness, no portion in world to come*

7. Five individuals are described as *Minim*:

- a) one who says there is no God nor ruler of the world;
- b) one who accepts the concept of a ruler, but maintains that there are two or more;
- c) one who accepts that there is one Master [of the world], but maintains that He has a body or form;
- d) one who maintains that He was not the sole First Being and Creator of all existence;
- e) one who serves a star, constellation, or other entity so that it will serve as an intermediary between him and the eternal Lord.

Each of these five individuals is a *Min*.

8. Three individuals are described as *Epicursim*:

- a) one who denies the existence of prophecy and maintains that there is no knowledge communicated from God to the hearts of men;

- b) one who disputes the prophecy of Moses, our teacher;
- c) one who maintains that the Creator is not aware of the deeds of men.

Each of these three individuals is an *Epicurus*.

## Sanhedrin veba`Onashin haMesurin lahem - Chapter 11

Exhibit Page 14 Quadrant D

*Laws which pertain to a mesit*

5. The laws which pertain to a *mesit*, a person who entices others to serve false divinities, differ from those pertaining to others liable for capital punishment. We hide witnesses to observe his act. He does not need a warning as must be given to others who are executed. If he departed from the court after being acquitted, and someone said: "I know a rationale that will lead to his conviction," he is returned and retried. If he was sentenced to death and someone said: "I know a rationale that will lead to his release," he is not retried. The court does not advance arguments in defense of a *mesit*. An elderly person, a eunuch, and a person who does not have sons are placed on the court which judges him, so that they will not have mercy on him. For cruelty to those who sway the people after emptiness brings mercy to the world, as implied by Deuteronomy 13:19: "so that God will turn away from His fierce anger and grant you mercy."

## Avodat Kochavim - Chapter Five

Exhibit Page 15 Quadrant A

*Execution of a madiach and a mesit*

2. A person who proselytizes the majority of the inhabitants of a city is called a *madiach* rather than a *mesit*. If the person who leads the majority of a city astray is a prophet, he is executed by stoning, and the people who were led astray are judged as individuals, and are not considered to be inhabitants of an עיר הנדחת. [For the latter laws to be applied,] two people must proselytize them.

If a person says: "A false deity told me: 'Serve me,'" or "The Holy One, blessed be He, told me: 'Serve a false deity'" - he is considered a prophet who leads others astray. If the majority of the city's inhabitants are swayed by his words, he should be stoned to death.

A *mesit* should be stoned to death whether he proselytizes in plural terms or in singular.

What is implied? He is considered a *mesit* if he tells a colleague, "I will worship a false deity. [Follow me.] I will go and worship..." or "Let us go and worship following the particular rite with which that deity is served," "I will slaughter. [Follow me.] I will go and slaughter..." or "Let us go and slaughter," "I will bring a burnt offering. [Follow me.] I will go and bring a burnt offering..." or "Let us go and bring a burnt offering," "I will offer a libation. [Follow me.] I will go and offer a libation..." or "Let us go and offer a libation," or "I will bow down. [Follow me.] I will go and bow down..." or "Let us go and bow down."

When a person proselytizes two individuals, they may serve as witnesses against him. They should summon him to court and testify against him, relating what he told them, and the *mesit* is stoned.

3. A *mesit* does not need a warning.

*Exhibit Page 15 Quadrant A**Execution of a mesit*

If one proselytizes a single individual, the latter should tell him, "I have friends who would also be interested in this," and thus he should lure him into proselytizing before two people, so that the *mesit* can be executed.

If the *mesit* refuses to proselytize before two people, it is a mitzvah to set a trap for him. A trap is never set for a person who violates any of the Torah's other prohibitions. This is the only exception.

How is the trap set for him? The *musat* should bring two people and place them in a dark place where they can see the *mesit* and hear what he is saying without his seeing them. He tells the *mesit*: "Repeat what you told me privately."

[When] he does so, the *musat* should reply: "How can we forsake our God in heaven and serve wood and stone?" If [the *mesit*] retracts or remains silent, he is not held liable. If he tells him, "This is our obligation and this is beneficial to us," those who stand far off have him summoned to court and stoned.

4. It is a mitzvah for the *musat* to kill [the *mesit*], as [Deuteronomy 13:10] states: "Your hand must be the first against him to kill him."

It is forbidden for the *musat* to love the *mesit*, as [the previous verse states]: "Do not be attracted to him." Since [Exodus 23:5] states with regard to an enemy: "You must surely help him," [the question arises:] Perhaps you should help a *mesit*? The Torah [Deuteronomy, *ibid.*] teaches, "Do not... listen to him."

Since [Leviticus 19:16] teaches: "Do not stand idly over your brother's blood," [the question arises:] Perhaps you should not stand idly over a *mesit*'s blood? The Torah teaches, [Deuteronomy, *ibid.*] "Do not let your eyes pity him."

## Avodat Kochavim - Chapter Nine

*Exhibit Page 15 Quadrant C**When transactions are forbidden with Canaanites*

4. The Canaanites<sup>77</sup> are idol worshippers, and Sunday is their festival. Accordingly, in *Eretz Yisrael*, it is forbidden to conduct transactions with them on Thursday and Friday each and every week, and, needless to say, on Sunday itself, when transactions with them are forbidden everywhere.

Footnote 77: The term "Canaanite" is a censor's alteration. The original term of the Mishnah Torah was "Roman" or "Christian."

## Avodat Kochavim - Chapter Two

*Exhibit Page 16 Quadrant D**Execution of a Jew who serves false gods*

5. A Jew who serves false gods is considered like a gentile in all regards and is not comparable to a Jew who violated another transgression punishable by being stoned to death. An apostate who worships false gods is considered to be an apostate with regard to the entire Torah.



Similarly, Jewish *minnim* are not considered to be Jews with regard to any matter. Their repentance should never be accepted, as [implied by Proverbs 2:19]: "None that go to her repent, nor will they regain the paths of life."

The *minnim* are those who stray after the thoughts of their hearts, concerning themselves with the foolish matters mentioned above, until they ultimately transgress against the body of Torah [law] arrogantly, with scorn, with the intent of provoking God's anger, and yet say that there is no sin involved.

### Mamrim - Chapter 3

*Exhibit Page 17 Quadrant A*

*Execution of a person who does not acknowledge validity of the Oral Law*

1. A person who does not acknowledge validity of the Oral Law is not the rebellious elder mentioned in the Torah. Instead, he is one of the heretics and he should be put to death by any person.<sup>1</sup>

2. Since it has become known that such a person denies the Oral Law, he may be pushed into a pit and may not be helped out. He is like all the rest of the heretics who say that the Torah is not Divine in origin, those who inform on their fellow Jews<sup>2</sup>, and the apostates.<sup>2</sup>

All of these are not considered as members of the Jewish people. There is no need for witnesses, a warning, or judges for them to be executed. Instead, whoever kills them performs a great mitzvah and removes an obstacle from people at large.

Footnote 1: As the Rambam continues to explain in the following halacha, a heretic should be slain. Any person may – and should – take the law into his own hands in the regard. There is no need to wait for judicial process.

Footnote 2: People who seek to give gentile authorities control over the lives or property of their fellow Jews. As stated in Hilchot Chovel UMazik 8:9-10, if possible, it is a mitzvah to kill such people, even in the era of exile.

### Melachim uMilchamot - Chapter 5

*Exhibit Page 17 Quadrant C, D*

*War which is a mitzvah*

1. A king should not wage other wars before a *milchemet mitzvah*.<sup>10</sup> What is considered as *milchemet mitzvah*? The war against the seven nations who occupied *Eretz Yisrael*, the war against Amalek, and a war fought to assist Israel from an enemy which attacks them.<sup>11</sup> Afterwards, he may wage a *milchemet hareshut*, i.e. a war fought with other nations in order to expand the borders of Israel or magnify its greatness and reputation.

4. It is a positive commandment to annihilate the seven nations who dwelled in *Eretz Yisrael* as Deuteronomy 20:17 states: 'You shall utterly destroy them.' Anyone who chances upon one of them and does not kill him violates a negative commandment as *ibid.*:16 states: 'Do not allow a soul to live.' The memory of them has already been obliterated.

5. Similarly, it is a positive commandment to destroy the memory of Amalek, as Deuteronomy 25:19 states: 'Obliterate the memory of Amalek.'

It is also a positive commandment to constantly remember their evil deeds and their ambush of Israel to arouse our hatred of them, as *ibid.*:17 states: 'Remember what Amalek did to you.' The Oral Tradition teaches: ...Remember' - with your mouths; ...Do not forget' - in your hearts.' For it is forbidden to forget our hatred and enmity for them.

6. All the lands which Israel conquers in wars led by a king and approved by the court are considered as conquered by the people at large. Thus, they have the same status as *Eretz Yisrael* which was conquered by Joshua in every regard. This only applies if they were conquered after the conquest of *Eretz Yisrael* as described in the Torah.

Footnote 10: The words, *milchemet mitzvah*, mean "a war which is a mitzvah." Waging each of the three wars mentioned in this halachah fulfills one of the 613 mitzvot of the Torah. Sifri, Ekev, relates that God criticized David for conquering Syria before he conquered the totality of *Eretz Yisrael*. The conquest of *Eretz Yisrael* is a *milchemet mitzvah*, while the conquest of Syria was not. God rebuked him, "You did not drive out the Jebusites living close to your own palace and yet, you found it necessary to conquer Aram."

Footnote 11: Leviticus 19:16 commands "Do not stand still over your neighbor's blood." *Sefer HaMitzvot* (neg. command 297) and *Sefer HaChinuch* (mitzvah 237) interpret this verse as a mitzvah to protect a Jew's life when he is in danger. As an extension of that principle, Number 10:9 obligates us to "go to war against an enemy who attacks you ...," promising that "you will be remembered by God and delivered from your enemies. See also Eruvin 45a.

This principle applies in the Diaspora, as well as in *Eretz Yisrael*. Accordingly, the *Shulchan Aruch*, *Orach Chayim* 229:6 relates that if gentiles attack Jews, even on the Sabbath, it is a mitzvah to organize a defense force and mount a counter-attack. The Ramah adds that even if the enemy have not mounted their attack, but it is well known that they desire to attack the Jews, war should be raised against them. This concept has contemporary relevance as well. For example, based on this principle, many of the Rabbinic leaders in *Eretz Yisrael* declared the 1982 war in Lebanon a *milchemet mitzvah*, for the Palestinians made no secret of their desire to attack the Jews.

#### *Exhibit Page 18 Quadrant B*

*When one is forbidden/allowed to leave Eretz Yisrael*

9. It is forbidden to leave *Eretz Yisrael* for the Diaspora at all times except:

to study Torah;

to marry; or

to save one's property from the gentiles.

After accomplishing these objectives, one must return to *Eretz Yisrael*.

Similarly, one may leave *Eretz Yisrael* to conduct commercial enterprises. However, it is forbidden to leave with the intent of settling permanently in the Diaspora unless the famine in *Eretz Yisrael* is so severe that a *dinar's* worth of wheat is sold at two *dinanim*.

When do these conditions apply? When one possesses financial resources and food is expensive. However, if food is inexpensive, but a person cannot find financial resources or employment and has no money available, he may leave and go to any place where he can find relief.



Though it is permitted to leave *Eretz Yisrael* under these circumstances, it is not pious behavior. Behold, Machlon and Kilyon were two of the great men of the generation and they left *Eretz Yisrael* only out of great distress. Nevertheless, they were found worthy of death by God.

## Melachim uMilchamot - Chapter 6

*Exhibit Page 18 Quadrant D*

*Subjugation of conquered peoples after peaceful settlement*

1. War, neither a *milchemet hareshut* or a *milchemet mitzvah*, should not be waged against anyone until they are offered the opportunity of peace as Deuteronomy 20:10 states: 'When you approach a city to wage war against it, you should propose a peaceful settlement.' If the enemy accepts the offer of peace and commits itself to the fulfillment of the seven mitzvot that were commanded to Noah's descendants, none of them should be killed. Rather, they should be subjugated as *ibid.*:11 states: 'They shall be your subjects and serve you.'

If they agree to tribute, but do not accept subjugation or if they accept subjugation, but do not agree to tribute, their offer should not be heeded. They must accept both. The subjugation they must accept consists of being on a lower level, scorned and humble. They must never raise their heads against Israel, but must remain subjugated under their rule. They may never be appointed over a Jew in any matter whatsoever.

The tribute they must accept consists of being prepared to support the king's service with their money and with their persons; for example, the building of walls, strengthening the fortresses, building the king's palace, and the like ... . In contrast, Solomon did not make bondsmen out of the children of Israel. They were men of war, his personal servants, his princes, his captains, the officers of his chariots, and his horsemen.

*Exhibit Page 19 Quadrant A, B, C*

*If peaceful settlement refused; males past majority killed, and women and children enslaved*

4. If they do not agree to a peaceful settlement, or if they agree to a peaceful settlement, but refuse to accept the seven mitzvot, war should be waged against them.

All males past majority should be killed. Their money and their children should be taken as spoil, but neither women or children should be killed, as Deuteronomy 20:14 states: 'But the women and the children... take as spoil.' 'The children' refer to males below the age of majority.

The above applies to a *milchemet hareshut* fought with other nations. However, if either the seven nations or Amalek refuse to accept a peaceful settlement, not one soul of them may be left alive as *ibid.* 20:15-16 states: 'Do this to all the cities that ... are not the cities of these nations. However, from the cities of these nations,... do not leave a soul alive.' Similarly, in regard to Amalek, Deuteronomy 25:19 states: 'Obliterate the memory of Amalek.'

6. No offer of a peaceful settlement should be made to Ammon and Moav, as Deuteronomy 23:7 states: 'Do not seek their peace and welfare for all your days.'

Even though we should not offer them a peaceful settlement, if they sue for peace themselves, we may accept their offer.

## Melachim uMilchamot - Chapter 8

*Exhibit Page 19 Quadrant D*

*Soldier may rape a gentile woman*

1. Similarly, [a soldier] may engage in sexual relations with a woman while she is still a gentile if his natural inclination overcomes him. However, he may not engage in sexual relations with her and then, go on his way. Rather, he must bring her into his home as Deuteronomy 21:11 states 'If you see a beautiful woman among the prisoners...You shall bring her into the midst of your home...' It is forbidden for him to engage in sexual relations with her a second time until he marries her.

*Exhibit Page 20 Quadrant A, B*

*Priest may have relations initially with yefat to'ar who accepts seven mitzvot; marriage forbidden after conversion*

4. A priest is also allowed relations with a yefat to'ar initially. For the Torah only permitted relations as a concession to man's natural inclination. However, he is not permitted to marry her afterwards, for she is a convert<sup>68</sup>.

Footnote 68: The latter term is a translation of the Hebrew *ger toshav*. As explained in Halachah 10, it refers to a gentile who accepts upon himself the observance of the seven mitzvot. The term is appropriate for such a gentile is entitled to settle in Eretz Yisrael. For when the Jews have undisputed rule over the land, they are forbidden to allow a gentile who has not accepted the seven mitzvot to dwell there for one moment.

*Exhibit Page 20 Quadrant C*

*Execution of yefat to'ar who doesn't abandon idol worship; law on treaties*

9. A yefat to'ar who does not desire to abandon idol worship after twelve months should be executed. Similarly, a treaty cannot be made with a city which desires to accept a peaceful settlement until they deny idol worship, destroy their places of worship, and accept the seven universal laws commanded Noah's descendants. For every gentile who does not accept these commandments must be executed if he is under our undisputed authority.

## Melachim uMilchamot - Chapter 9

*Exhibit Page 21 Quadrant A*

*Execution of gentiles who worship false gods*

2. A gentile who worships false gods is liable provided he worships them in an accepted manner.

A gentile is executed for every type of foreign worship which a Jewish court would consider worthy of capital punishment.<sup>76</sup>

Footnote 76: Every false god has an accepted manner in which its adherents serve it. The idol worshippers established many [different] services for each particular idol and image. The service of one does not resemble the service of another (*Hilchot Avodat Kochavim* 3:2). A person does not incur the death penalty unless he worships a false god in its appropriate manner.

## Berachot - Chapter Ten

*Exhibit Page 21 Quadrant C, D*

*Invocations in different situations*

11. The following should be recited when one sees 600,000 people at one time. If they are gentiles, he should recite the verse (Jeremiah 50:12): "Your mother shall be greatly ashamed; she that bore you will be disgraced. Behold, the ultimate fate of the gentiles will be an arid wilderness and a desolate land." If they are Jews and in *Eretz Yisrael*, he should recite the blessing: Blessed are You, God, our Lord, King of the universe, the Wise [who knows] secrets.

12. A person who sees a Negro or a person who has a strange-looking face or an abnormal limb should recite the blessing: Blessed are You, God, our Lord, King of the universe, who has altered His creations. When one sees a blind man, a one-legged person, a person with skin boils or white blotches, or the like, he should recite the blessing "the true Judge." If they were born with these afflictions, he should recite the blessing "who has altered His creations." When one sees an elephant, monkey, or owl, he should recite the blessing: "Blessed... who has altered His creations."

*Exhibit Page 22 Quadrant C, D**Invocations in different situations*

19. When a person sees a settlement of gentile homes, he should recite the verse (Proverbs 15:25): "God will pluck up the house of the proud." Should he see a desolate settlement of gentile homes, he should recite the verse (Psalms 94:1): "The Lord is a God of retribution. O God of retribution, reveal Yourself." When one sees gentile graves, he should recite the verse (Jeremiah 50:12): "Your mother shall be greatly ashamed...."

## MISHNEH TORAH

### Sefer Kedushah - Issurei Biah - Chapter Twelve

*Exhibit Page 23 Quadrant A, B*

*Execution of gentile woman after rape by a Jewish male, including minors of three years of age, as long as Jewish male is nine years or older*

10. If, by contrast, a Jewish male enters into relations with a gentile woman, when he does so intentionally, she should be executed.

\*\*\*

She is executed because she caused a Jew to be involved in an unseemly transgression, as [is the law with regard to] an animal. [This applies regardless of] whether the gentile woman was a minor of three years of age, or an adult, whether she was single or married. And it applies even if [the Jew] was a minor of nine years old, [she is executed].

### Sefer Kedushah - Issurei Biah - Chapter Seventeen

*Exhibit Page 23 Quadrant C**Classes of women forbidden to all priests and a High Priest*

1. There are three women who are forbidden to all priests [by Scriptural Law]: a divorcee, a *zonah*, and a *challalah*. There are four [forbidden to] a High Priest. These three and a widow.

## Sefer Kedushah - Issurei Biah - Chapter Eighteen

*Exhibit Page 23 Quadrant D*

*Meaning of zonah*

1. Based on the Oral Tradition, we learned that the term *zonah*<sup>1</sup> used by the Torah refers to one who is not a nativeborn Jewess, a Jewish woman who engaged in relations with a man she was forbidden to marry, violating a prohibition that is universally applicable, or a woman who engaged in relations with a *challal* even though she is permitted to marry him.

Footnote 1: The term literally means "a promiscuous woman." Halachically, however, it has a specific meaning as the Rambam continues to explain.

## Sefer Kedushah - Issurei Biah - Chapter Eighteen

*Exhibit Page 24 Quadrant A, B*

*Meaning of zonah (duplicate)*

1. Based on the Oral Tradition, we learned that the term *zonah*<sup>1</sup> used by the Torah refers to one who is not a nativeborn Jewess, a Jewish woman who engaged in relations with a man she was forbidden to marry, violating a prohibition that is universally applicable, or a woman who engaged in relations with a *challal* even though she is permitted to marry him.

Footnote 1: The term literally means "a promiscuous woman." Halachically, however, it has a specific meaning as the Rambam continues to explain.

## Sefer Kedushah - Issurei Biah - Chapter Eighteen

*Exhibit Page 24 Quadrant D*

*Nature of intercourse that causes females of at least three years old to become a zonah*

6. Whenever a woman engages in relations that cause her to be deemed a *zonah*, she becomes disqualified as soon as the man's organ enters her whether she engages in relations against her will or willingly, whether in conscious violation or inadvertently, whether through vaginal or anal intercourse. [This applies] provided she is at least three years old and the man with whom she engages in relations is nine years old or more. Therefore when a married woman engages in adultery, whether against her will or willingly, she is disqualified from [marrying into] the priesthood.

## Sefer Kedushah - Issurei Biah - Chapter One

*Exhibit Page 25 Quadrant A*

*Punishments applicable to adults and minors (females at least three years and a day and males at least nine years and a day)*

13. When an adult male enters into relations with any of the women forbidden in connection with the above transgressions who is three years and one day old or more, he is liable for execution, *kerait*, or lashes and she is not liable unless she is past majority. If she is younger than this, both participants are not liable, for the act is not considered as sexual relations. Similarly, when an adult woman enters into sexual relations with a minor, if he is nine years and one day old, she is liable for execution, *kerait*, or lashes and he is not liable. If he is younger than nine years old, they are both free of liability.

## Sefer Kedushah - Issurei Biah - Chapter Eleven

*Exhibit Page 25 Quadrant C*

*Immersion required for woman to ascend from ritual impurity (mikveh)*

16. A woman does not ascend from her state of ritual impurity and cease being considered as an *ervah* until she immerses herself in a mikveh that is halachically acceptable while there are no substances intervening between her flesh and the water. In *Hilchos Mikveot*, we will explain what defines a *mikveh* as acceptable and what disqualifies it, the manner in which one should immerse, and the laws concerning intervening substances.

## Sefer Kedushah - Issurei Biah - Chapter Fourteen

*Exhibit Page 25 Quadrant D*

*Women converts sit in mikveh*

6. Three [judges] stand over him and inform him about some of the easy mitzvot and some of the more severe ones a second time while he stands in the water. If the convert was female, women position her in the water until her neck while the judges are outside. They inform her about some of the easy mitzvot and some of the more severe ones while she is sitting in the water. Then she immerses herself in their presence. Afterwards, they turn their faces away and depart so that they will not see her when she ascends from the water.

## Sefer Kedushah - Issurei Biah - Chapter Fourteen

*Exhibit Page 26 Quadrant B*

*See previous entry*

*Exhibit Page 26 Quadrant C, D*

*Gentile relatives of converts not considered relatives after conversion. Convert may marry or have relations with his mother or his maternal sister*

11. When a gentile converts or a servant is freed, he is like a newborn baby. Any relatives whom he had as a gentile or a servant are no longer considered his relatives. If both he and they convert, he is not obligated for relations with any of them.

12. According to Scriptural Law, a convert may marry his mother or his maternal sister after they convert. Nevertheless, our Sages forbade this so that [the converts] will not say: "We came from a more severe level of holiness to a less severe one. Yesterday, this [relationship] was forbidden and today, it is permitted."

Similarly, when a convert engages in relations with his mother or his sister when they have not converted, it is considered as if he had relations with a woman with whom he was not related.

## Mishneh Torah - Ishut - Chapter Three

*Exhibit Page 27 Quadrant A*

*Father's rights over minor female at birth and at three years and a day*

11. A father may consecrate his daughter without her knowledge while she is a minor. Even when she is a *na'arah*, he still possesses this right, as [implied by Deuteronomy 22:16]: "I gave my daughter to this man."



[The money received as] *kiddushin* belongs to her father. Similarly, he has the right to [any ownerless property] she finds, [the wages she receives for] her labor, and [the money she receives as stipulated in] her *ketubah* if she is divorced or widowed before the marriage bond is consummated. He is entitled to all these until she becomes a *bogeret*.

Therefore, a father is entitled to receive *kiddushin* on behalf of his daughter from the day she was born until she becomes a *bogeret*. Even if she is a deaf mute or intellectually incompetent, if her father consecrates her [to another man], she is his wife.

If a girl is older than three years and one day, she can be consecrated through sexual relations with her father's consent. Should she be below this age, if her father has her consecrated through sexual relations, the marriage bond is not established.

## Mishneh Torah - Ishut – Chapter Four

*Exhibit Page 27 Quadrant B*

*Rules for giving females in marriage*

7. When a minor consecrates [a woman], his *kiddushin* are of no consequence. When, by contrast, a male past the age of majority consecrates a girl below the age of majority who is an orphan, or who has left her father's authority, [different rules apply]: If she is below the age of six, even if she is one who shows deep understanding of secret matters, and can differentiate and discern, she is not married, and there is no need for *mi'un*.

If she is more than ten years old, even when she is very foolish, since she willingly accepted the *kiddushin*, she is consecrated [according to Rabbinic law] and [must perform] *mi'un* [should she desire to nullify the marriage]. If she is between the ages of six and ten, [the rabbis] must evaluate her ability to discern. If she is able to differentiate and discern with regard to matters of marriage and *kiddushin*, [the marriage is binding according to Rabbinic law] and *mi'un* is necessary. If she lacks [this degree of discernment], she is not consecrated [at all], and need not perform *mi'un* [to nullify the marriage].

## Mishneh Torah - Ishut - Chapter Twelve

*Exhibit Page 27 Quadrant C*

*Privileges of the husband to the detriment of his wife*

3. The four privileges that the husband is granted are all Rabbinic in origin. They are:

- a) the right to the fruits of her labor;
- b) the right to any ownerless object she discovers;
- c) the right to benefit from the profits of her property during her lifetime;
- d) the right to inherit her [property] if she dies during his lifetime. His rights to her property supersede [the rights of] all others.

## Mishneh Torah - Ishut - Chapter Twenty-One

*Exhibit Page 28 Quadrant A*

*Wife must work on behalf of her husband; he receives all the proceeds*

1. A husband is entitled to [any ownerless objects] discovered by [his] wife, and the proceeds of her labor. What [type of work] must she perform on his behalf? Everything follows the custom of the country. In a place where it is customary for women to weave, she should weave. [In a place where they] embroider, she should embroider. [In a place where they] spin wool or flax, she should spin.

2. If a woman exerts herself and produces more than would be expected of her, her husband is entitled to the extra amount.

*Exhibit Page 28 Quadrant C*

*Wives may be compelled to perform tasks with a rod*

10. Whenever a woman refrains from performing any of the tasks that she is obligated to perform, she may be compelled to do so, even with a rod.

## **Mishneh Torah - Ishut - Chapter Twenty-Two**

*Exhibit Page 22 Quadrant D*

*Property rights of husband over wife in life and at death*

7. During a woman's lifetime, her husband enjoys the benefits of all the property she owns, regardless of whether it is classified as *nichsei tzon barzel* or *nichsei m'log*. If she dies in her husband's lifetime, her husband inherits everything.

Therefore, if the woman sold property classified as *nichsei m'log* after she married, even if she became the owner of that property before she became consecrated, her husband may expropriate the income from that property from the purchasers throughout his wife's lifetime. He may not, however, expropriate the land itself, for he has no right to the land itself, if it is classified as *nichsei m'log*, until his wife dies.

If she dies in his lifetime, he may expropriate the land from the purchasers without paying them for it.

AL-'OWHALI v. SPROUL, ET AL.

EXHIBIT B







From the Hebrew - English Mishneh



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...the fact that the Babylonian Talmud is not a single, unified work, but rather a collection of many different texts, each of which represents a different stage in the development of Jewish law and thought. This is evident from the very structure of the Talmud, which is organized into distinct sections, each of which deals with a different topic or set of issues. The Babylonian Talmud is a vast and complex work, and its study is a lifelong pursuit for many Jews. It is a treasure trove of knowledge and wisdom, and its teachings continue to shape Jewish life and thought to this day.

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Friday, September 29

Rambam's introduction to the Mishnah Torah

September 24-30, 2017 100

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Rambam's introduction to the Mishnah Torah



*Tosefuf*, for they require a breadth of knowledge, a spirit of wisdom, and much time, for appreciating the proper path regarding what is permitted and forbidden, and the other laws of the Torah.

Therefore, I girded my loins - I, Moses, the son of Maimon, of Spain.<sup>10</sup> I relied upon the Rock, blessed be He. I contemplated all these texts and sought to compose [a work which would include the conclusions] derived from all these texts regarding the forbidden and the permitted, the impure and the pure, and the remainder of the Torah's laws, all in clear and concise terms, so that the entire Oral Law could be organized in each person's mouth without questions or objections.

Instead of [arguments], this one claiming such and another such, [this text will allow for] clear and correct statements based on the judgments that result from all the texts and explanations mentioned above, from the days of Rabbeinu Hakadosh until the present. [This will make it possible] for all the laws to be revealed to both those of lesser stature and those of greater stature, regarding every single mitzvah, and also all the practices that were ordained by the Sages and the Prophets.

To summarize: [The intent of this text is] that a person will not need another text at all with regard to any Jewish law. Rather, this text will be a compilation of the entire Oral Law, including also the ordinances, customs, and decrees that were enacted from the time of Moses, our teacher, until the completion of the Talmud, and was explained by the Geonim in the texts they composed after the Talmud.

<sup>10</sup> Though the Rambam mentions his nationality when stating his name in some of his other works as well (see *Iggeret HaGedulah*), it is possible that he had a specific intention in doing so here. Despite his desire and intention for the *Mishneh Torah* to be universally accepted, he knew that other customs were followed in the Ashkenazic community. By mentioning his country of origin, he could be alluding to the fact that some of the customs he mentioned were specific to Jews of that background (*Najim Melchut*).

Yom Kippur, September 30

יום כיפור, י' תשרי

## The Positive Commandments

## מצוות עשה

1 The first of the positive commandments is the mitzvah to know that there is a God, as [Exodus 20:2] states: "I am God, your Lord."

א מנחה ראשונה מסמנת עשה - לידע שיש שם אלהים: שמואל: אהיה לך אלהיך.

2 To unify Him, as [Deuteronomy 6:4] states: "God is our Lord, God is one."

ב ליהוה: שמואל: יי אלהינו יי אחד.

3 To love Him, as [Deuteronomy 6:5] states: "And you shall love God, your Lord."

ג לאהבה: שמואל: ואהבת את יי אלהיך.

4 To fear Him, as [Deuteronomy 6:13] states: "Fear God, your Lord."

ד לראות מפני: שמואל: את יי אלהיך תירא.

5 To pray, as [Exodus 23:25] states: "And you shall serve God, your Lord." This service is prayer.

ה להתפלל אליו: שמואל: ועבדת את יי אלהיך. (ועבודה זו - היא תפילה).

6 To cling to Him, as [Deuteronomy 10:2] states: "And you shall cling to Him."

ו לזכרה בו: שמואל: ובו תדבק.

7 To swear in His name, as [Deuteronomy 10:20] states: "And you shall swear in His name."

ז להשבע בשמו: שמואל: ובשמי תשבע.

8 To emulate His good and just ways, as [Deuteronomy 28:19] states: "And you shall walk in His ways."

ח לתמונה בדרךיו הטובים והנכונים: שמואל: ותלכת בדרךיו.

9 To sanctify His name, as [Leviticus 22:32] states: "And I shall be sanctified amidst the children of Israel."

ט לקדש את שמו: שמואל: ונקדשתי בטרם בני ישראל.

10 To recite the Shema twice daily, as [Deuteronomy 6:2] states: "And you shall speak of them when you lie down and when you arise."

י לקרוא קריאת שמע פעמים בכל יום: שמואל: ודברת בהם. ובשכבה ובקומה.

11 To study Torah and to teach it [to others], as [Deuteronomy 6:2] states: "And you shall teach them to your children."

יא ללמד תורה וללמדנה: שמואל: ושונתם לבניך.

The inhabitants of each city would ask many questions of each Gaon who lived in their age, to explain the difficult matters that existed in the Talmud. They would reply to them according to their wisdom. The people who had asked the questions would collect the replies and make texts from them, so that they could consider them in depth.

Also, the Geonim of each generation composed texts to explain the Talmud. Some of them explained only certain halachot. Others explained selected chapters that had created difficulty in their age. Still others explained entire tractsates and orders.

Also, [the Geonim] composed [texts recording] the decisions of Torah law regarding what is permitted and what is forbidden, when one is liable and when one is free of liability, with regard to subjects that were necessary at the time, so that they would be accessible to the grasp of a person who could not comprehend the depths of the Talmud. This is the work of God, which was performed by all the Geonim of Israel from the completion of the Talmud until the present date, 1108 years after the destruction of the Temple, 4937 years after the creation of the world.

At this time, we have been beset by additional difficulties, everyone feels [financial] pressure, the wisdom of our Sages has become lost, and the comprehension of our men of understanding has become hidden. Therefore, those explanations, laws, and replies which the Geonim composed and considered to be fully explained material have become difficult to grasp in our age, and only a select few comprehend these matters in the proper way.

Needless to say, [there is confusion] with regard to the Talmud itself - both the Jerusalem and Babylonian Talmuds - the *Sifra*, the *Sifre*, and the

ושאלות רבות שואלים אנשי כל עיר ועיר לכל זמן אשר היה ביניהם, לקוש' לכל דברים שהם שגגות, והם משיבים להם דפי תבנית. ואותם השואלים מקבצים הקשבות ויושין מן ספרים לכתוב מהם.

גם חביו האנשים שבעל דור ודור תבדוק לראות התקדש: מהם מי שפרש הלכות ודעות, ומהם שפרש פוסקים יחידים שותקשו בטי, ומהם מי שפרש ספיקות ודברים.

ועוד חביו הלכות פוסקות בענין אסור וזהר, וזהב ופסור בדרים שהשקה דרכה להם, כדי שיהיו קרובים למעט מי שאינו יכול לידע דפסה של גמרא, וזו היא מלאכת ה' שיש בה כל זמני ישראל מיום שהתנה התקדש ועד ימנו וזה שהיה שנה שמינית אשר סאה וזהו לתקנו בתורה. והיא שנת ארבעת אלפים ותשע מאות ושלשים ושבע לבריאת עולם.

ובזמן הזה הקשו הדעות ידיות, ודחקה השעת את הכל, ואנקה תבנית ובינה ובנינו נקטרה לשיקא אותם המשיבים וההלכות וההשבות שחביו האנשים, וזהו שהם דברים מביארים, ומבשרים כישנו ואין מיבין עניניהם קראי, אלא מעט מנספח.

ואין צורך לומר התקדש עצמה, כפולת הירושלמית וספרא וספרא והתוספתא, שהם צוריקין דעת

Therefore, I have called this text, *Mishneh Torah* ["the second to the Torah," with the intent that] a person should first study the Written Law, and then study this text and comprehend the entire Oral Law from it, without having to study any other text between the two.

I saw fit to divide this text into [separate] halachot pertaining to each [particular] subject, and, within the context of a single subject, to divide those halachot into chapters. Each and every chapter is divided into smaller halachot so that they can be ordered in one's memory.

[Regarding] the halachot which pertain to specific subjects: Some of the halachot contain the laws governing only one mitzvah, this being a mitzvah that has many matters of the tradition [associated with it] and is a subject in its own right. Other halachot contain the laws governing many mitzvot, since they deal with the same subject matter, for I have divided this text according to topics, not according to the number of mitzvot, as will become clear to the reader.

The number of mitzvot which are incumbent on us at all times is 613. 248 are positive commandments: an allusion to their [number], the number of limbs in the human body.<sup>11</sup> 365 are negative commandments (prohibitions); an allusion to their [number], the number of days in a solar year.<sup>12</sup>

Note: Over the next few days, the Rambam study-cycle follows the enumeration of the 613 Mitzvos, which the Rambam compiled as a preface to the actual detailed Halachos. It is customary to learn/read these too.

<sup>11</sup> In *Seder Hamitzvot*, the Rambam quotes the *Midrash Tanhuma* (Ki Tetze), which states that it is as if each limb of the body is saying, "Do a mitzvah with me."

<sup>12</sup> Thus, it is as if each day of the year is saying, "do not commit a transgression on me" (*ibid.*)



say: "Why should we become responsible for [shedding the defendant's] blood? It is already said: 'At the destruction of the wicked, there is joy.'"

If they stand by their word, the witness of the greater stature is brought into the court [alone] and he is questioned and cross-examined, as will be explained in *Hilchot Eduh*. If his testimony appears to be factual, the second witness is brought into the court, and he is questioned as the first one was. Even if there are 100 witnesses, each one is questioned and cross-examined.

If the testimony of all the witnesses is accurate, we begin the judgment with a statement that tends to acquittal as stated. We tell him: "If you did not transgress, do not fear their words." [Then] we judge him. If grounds for acquittal are found, he is released. If they do not find grounds for acquittal, [the defendant] is imprisoned until the following day. On that day, the *Sanhedrin* divides itself into pairs and they examine the judgment. They eat little and do not drink wine throughout that entire day. They debate the matter throughout the night, each one with his comrade or alone.

On the morrow, they come to the court early. [Each of] those who voted for acquittal state: "I am the one who voted for acquittal [yesterday], and I still favor that ruling." [Each of] those who voted for conviction state: "I am the one who voted for conviction [yesterday], and I still favor that ruling." or "I have changed my mind and I vote for acquittal." If they erred in that regard, or did not know who voted for conviction or who voted for acquittal on the basis of one rationale and hence are considered only as one, as we explained, the two scribes of the court remind them, for they write down the rationale given by each one of them.

123 | Chayim Marcus-Ma'el, 5777

From the Hebrew - English Midneh Torah

תאמרו: 'מה לנו להיכנס בדמי של זה, ויהיה נכבד ורשעים וזה' (שטיל יא, י).

אם עמדו דבריהם - מבינים את הגדול שבצדדים, ובדוקין אותו בדרך-יחידה כמו שיתבאר בהלכות עדות. נמצאת עדותו כקצת - מבינים את השני, ובדוקין אותו בראשון; ואפילו היה ספק צדדים, בודקין כל אחד ואחד בדרך-יחידה.

נמצא דבריו כל העדים עקבין - מותחין בזכות כפי שבאנו, ואמרין לו: 'אם לא תהא את מירא מדבריהם, ונני אומר: אם נמצא לו זכות, מוטרין אותו; ואם לא נמצא לו זכות, מוטרין אותו עד למחר, וזו כיום מוטרין ה<sup>26</sup>הנהדרין וזוהי זכות, לכן בדינו. ומשפיע כפאכל, ואין שותין וין כל אותו היום, ונשאין ונמנין בדרך כל הלילה, כל אחד ואחד עם זוג שלו או עם עצמו בביתו.

ולמחרת משפיעין לבית דין, המונה אומר: 'אי הוא המונה, ומהוה אי בדיקאטי', והמביא אומר: 'אי מוכיב בטקטי', או 'חורתי ואני מונה, ואם טעו בדבר, ולא ידעו מי הם שומרי או וזו טעם אחר שצריך להשיב אלא כאחד כפי שבאנו - הרי סופרי ההנהדרין מוכריין אותם, שגור' הן מוכיב טעם של כל אחד ואחד.

We begin the judgment. If they find a rationale to acquit him, they acquit him. If it is necessary to add judges, they add. If there is a majority of judges who seek to convict him, and he is convicted, he is taken out to be executed [immediately].

The place where the court conducts the execution is outside the court and removed from it, as [implied by Leviticus 24:14]: "Take the blasphemer outside the camp..." It appears to me that it should be approximately 6 mil,<sup>26</sup> the distance between the court of Moses our teacher which was before the entrance of the Tent of Meeting and the extremities of the camp of the Jewish people.<sup>27</sup>

4 After [a defendant] has been convicted, we do not delay [the matter], but instead execute him immediately. Even if [a woman] is pregnant, we do not wait until she gives birth. Instead, we give her a blow against the womb so that the fetus will die first.<sup>28</sup> If, by contrast, she is already in the throes of labor, we wait until she gives birth.<sup>29</sup> Whenever a woman is executed, it is permitted to benefit from her hair.

5 When a person is being taken out to be executed and a sacrifice of his has already been slaughtered, we do not execute him until the blood of his sin offering or guilt offering has been sprinkled [on the altar] for his sake. If, however, he was already convicted and the [animal designated as a] sacrifice has not been slaughtered already, we do not wait until the sacrifice is brought, for we do not prolong his judgment.

<sup>26</sup> A mil is 2000 cubits, approximately a kilometer in contemporary measure.

<sup>27</sup> The camp of the Jewish people was 12 mil long and the Tent of Meeting was in the center. Thus the distance from Moses' tent to the camp periphery was slightly less than 6 mil.

<sup>28</sup> If the fetus is not killed first, it may emerge after the woman's death and that would result in the designation of her corpse (Rashi, *Arachin* 7a).

<sup>29</sup> For the fetus has already taken on the status of an independent entity (*shid*).

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July 16-22, 2017 | 124

והתחילין בדינו. אם מצא לו זכות, מוטרין אותו; ואם נמצא לו רשע, מוסיפין. רבו המבייבין, והתקבץ מדיקין אותו להרוג.

ומקום שהנהדרין בו בית דין - היה וצד לבית דין ורחוק מבית דין, שצריך לומר: 'אם את המהולל אל מחוץ למחנה' ויבא בו, וי. ורואה לי שיהיה רחוק כפי ששה מילין, כמו שהיה בין בית דין של משה רבנו שנהיה לפני אהל מועד, וכן סוף מחנה וישראל.

ד' מי שנפטר דיו - אין משהין אותו, אלא יתבד כיוסו, אפילו היתה עברה - אין משהין לה עד שחלה, ומכין אותה כנגד בית הנדון עד שימות - הולך חולה, אבל אם ישבה על השכר - ממהינן לה עד שחלה, וכל אשה שמתה, קוטר לנתת בשער.

ה' מי שצא לנהיג, והיה ובוה נסו - אין ונהדרין אותו עד ששורין עליו סם סקאח ואשמו, ואם נפטר דיו, ונדר לא משהין הנה - אין משהין לו עד ששורין עליו קרבו, שצריך משהין את דיו.

Even if he was sentenced to be executed for the less severe form of execution and afterwards, committed a transgression punishable by the more severe form, should he be convicted, he is executed in the more severe manner.

5 Both men and women are executed in these four manners.

6 Whenever people who are all liable to be executed are mixed together,<sup>16</sup> each one of them is executed in the less severe manner.

7 When a person who has been sentenced to death becomes mixed together with others and it is impossible to distinguish him from them, and similarly, when a person who was not convicted becomes mixed together with others who have been convicted and sentenced to death and it is impossible to distinguish him from them, they are all released from liability. [The rationale is that] we complete the judgment of a person only when he is present.<sup>17</sup>

8 When a convicted person fights for his life and it is impossible for the court to have him bound so that he can be executed in the manner in which he is obligated to die, the witnesses should kill him in any manner they can, for he has been sentenced to death. No one else, however, has the right to kill him first.

For this reason, if the hands of the witnesses are cut off, [the convicted person] is released.

If, however, at the outset, the witnesses did not have hands, [the convicted person] should be executed by others.

When does the above apply? To all people who are liable to be executed by the court with the exception of a murderer.

<sup>16</sup> And the court is unable to differentiate the person who was sentenced to a less severe manner.

<sup>17</sup> Since the person cannot be identified, it is as if he is not present (Rashi, *Sanhedrin* 78b).

Published by Moznaim Publishing

July 16-22, 2017 | 125

אפילו נפטר דיו לקלה, ואחר כך עבר על התורה ונפטר דיו - נדון בהמורה.

ה' ואחר האיש ואחר האשה, ודיו אותו בארבע המיתות.

ו' כל חבין מיתות שנתערבו זה בזה, ידון כל אחד בזה בזה בזה.

ז' מי שנפטר דיו שנתערב עם שאר הקס ולא נודע מי הוא מאלו, או מי שלא נבדל דיו שנתערב בזה שנפטר דיו ולא נודע מי הוא - קול פטורין, לפי שאין מוטרין דיו של אדם אלא בקיני.

ח' מי ששער על נפשו, ולא יכלו בית דין לאסר אותו עד שימותו במיתה שראוי לה - הורגין אותו עדיו ככל מיתה שצריך להמית אותו בה, טאח שנפטר דיו, ואין רשות לשאר הקס להמית אותו חתלה.

לשיב אם נתפסה יד העדים, טור.

ואם היו העדים נדבין מתחלה, ירדג בדי אחרים.

במה דברים אמורים? בשאר מיתות בית דין, חוץ מן הרוצח.

Friday, July 21

## Chapter fourteen

Four types of execution were given to the court: stoning, burning, decapitation with a sword, and strangulation.

Stoning and burning are explicitly mentioned in the Torah. Moses our teacher taught<sup>16</sup> that whenever the Torah mentions the death sentence without any further description, the intent is strangulation. When a person kills a colleague, he should be decapitated. Similarly, the inhabitants of a city that goes astray<sup>17</sup> are executed by decapitation.

2 Every one of these forms of execution involves a positive commandment for the court to execute a person with the form of death for which he is liable. A king has permission to execute using only one of them - by decapitation.

3 Whenever a person is obligated to be executed and the court did not execute him, [the judges] negated the observance of a positive commandment, but do not transgress a negative commandment. There is one exception: a sorcerer. If they do not kill him, they violate a negative commandment, as [Exodus 22:17] states: "Do not allow a sorcerer to live."

4 Stoning to death is a more severe form of execution than burning. Burning is a more severe form than decapitation, and decapitation is more severe than strangulation.

When a person is liable to be executed with two different forms of execution, he should be executed with the more severe form. [This applies] whether he committed two transgressions, one after the other, or he committed one transgression which involved two death penalties.

<sup>16</sup> I.e., this was part of the received tradition of the Oral Law.

<sup>17</sup> I.e., a city where the majority of the inhabitants worship idols.

129 | Chayim Marcus-Ma'el, 5777

From the Hebrew - English Midneh Torah

יום שישי, כ"א בתמוז

## פרק יד

א' ארבע מיתות נתפסו לבית דין: סקילה, הורקה, ודבירה בסיף, ונתק.

ה' סקילה ודבירה, מפורשין זה בזה. ודבירה משה רבנו למד, שקל מיתה האסורה בזה. ונתק, ודבירה אחר, מיתה בסיף. וכן אנשי עיר הנדונה, מיתת בסיף.

ב' כל מיתה טעם - מצות עשה היא לבית דין להרג בה מי שנתחייב בה, ואין רשות לסקל להרג באחת מהן, אלא בסיף בלבד.

ג' כל מיתת מיתת בית דין שלא הטיחו אותו בית דין - כבול מצות לא עשה. ולא עברו על מצות לא עשה. ודיו מן העסקין, שאם לא הטיחו אותו - עברו על מצות לא עשה. שנאמר: "מכשפה לא תחיה" (שמות כב, י).

ד' סקילה חמורה מן ההורקה, והורקה חמורה מן הסקילה, והורקה חמורה מן הנתק.

ו' כל מי שנתחייב בשתי מיתות, נדון בהמורה. בין ששני שתי עבירות או אחרי זו, בין ששני עבירות אחת ששני עליה שתי מיתות.



Ranbourn Friday







6 When a person steals one of the sacrificial vessels from the Temple, curses God's name using the name of a false divinity,<sup>24</sup> or has relations with an idolatrous gentle woman, the court does not deal with this matter. Instead, the zealous strike them. Whoever slays them is worthy of merit. Similarly, when a priest served [in the Temple] while ritually impure, his priestly brethren would not bring him to court. Instead, the young priests take him out of the Temple Courtyard and crack his head open with logs.

It is a Scriptural decree that the court does not execute a person or have him lashed because of his own admission. Instead, the punishments are given on the basis of the testimony of two witnesses. Joshua's execution of Achan<sup>25</sup> and David's execution of the Amalekite<sup>26</sup> convert because of their own statements was a directive of immediate relevance only<sup>27</sup> or was by royal fiat.<sup>28</sup> The *Sanhedrin*, however, may not execute or lash a person who admits committing a transgression, lest he have become crazed concerning this matter. Perhaps he is one of those embittered people who are anxious to die and pierce their rears with swords or throw themselves from the rooftops. (Similarly, we fear) that such a person may come and admit committing an act that he did not perform, so that he will be executed. The general principle is [the disqualification of a person's own testimony] is a decree of the King.<sup>29</sup>

<sup>24</sup> The prohibition against blaspheming God's name is described in *Hilchos Avodot Kohanim*, Chapter 2. In this instance, since the transgressor involves the name of a false divinity, he is not liable for the violation of that prohibition, *farvard*, he is punished in this manner.

<sup>25</sup> For blaspheming from the spell of Jericho (Joshua, Ch. 7).

<sup>26</sup> For killing King Saul (II Samuel, Ch. 19).

<sup>27</sup> I.e., he was instructed to do so by a Divine order which he received through the prophetic spirit (*Domtutur Rubbat* 23:6). Thus this practice should not be emulated in the future.

<sup>28</sup> As stated in *Hilchos Avodot Kohanim* 3:8-10, a king has the right to execute people even when they are not liable for execution by the court. The commentators have raised a question with this explanation, because as stated in that source, a king may only execute violators through deception, and Joshua had Achan stoned to death. The *Mishnah Chavot* states that when the king executes a person to strengthen Torah observance, his fiat is not limited and he may use any means of execution he desires.

<sup>29</sup> I.e., although one might question the above explanation - for it does not necessarily apply with regard to lashes - one must realize that the ruling is not dependent on the explanation, but is instead a Divine decree, which we may or may not comprehend intellectually.

6) a person who partakes [of the product] of dough from which *challah* was not separated; 7) a priest who partakes of *terumah* that was ritually pure while he was in a state of ritual impurity; 8) a priest who entered the Holy of Holies for a purpose other than sacrificial worship; 9) a priest who departed from the Temple in the midst of the sacrificial worship; 10) a Levite who performed the service of the priests;

11) a person other than a priest who performs service in the Temple; 12) a person who does not wear all the priestly garments; he is considered as if he is not a priest and receives lashes if he serves [in the Temple]; 13) a priest who serves [in the Temple] while in a state of ritual impurity;<sup>31</sup> 14) a person who was intoxicated from wine who served [in the Temple]; 15) a person who immersed himself [to emerge from a state of ritual impurity] but must still wait until the end of the day [to attain a state of purity] who served [in the Temple]; 16) [a priest] who served [in the Temple] although he did not yet bring the required sacrifices to attain atonement; 17) a person who let his hair grow long who served [in the Temple]; 18) a person whose clothes are ripped who served [in the Temple];

3 When, however, a person serves [in the Temple] without sanctifying his hands and feet, although he is worthy of death, he does not receive lashes, because [he has violated] only a positive commandment. Similarly, the [following] three - a prophet who withheld his prophecy or transgressed his own [prophecy] and a person who violated the words of a prophet - although they all are worthy of death - they do not receive lashes. For their transgression stems from a positive commandment, as [Deuteronomy 18:15] states: "And you shall listen to him." [In all contexts,] a prohibition that stems from a positive commandment has the status of a positive commandment and lashes are not administered because of it.

<sup>31</sup> As forbidden by Leviticus 22:3; *Hilchos Bi'at HaMikdash* 4:1. See Chapter 18, *Halachah* 6, which states that such a person would not be brought to court for lashes. Instead, he would be killed by the young priests.

וְהַגִּבּוֹר כְּלִי שֶׁדָּת מִן הַמִּקְדָּשׁ, וְהַזֶּה עֲלֵה אֶרְבֵּית אֵין בֵּית דִּין מִקְדָּשׁ לֵאמֹר, אֵלֶּה הַקְּדוֹת מִנְּהֵן כָּלֹה וְלֹא שְׂוִיָּהוּ, וְכֵן כֵּן שֶׁשֶּׁשֶּׁם בְּמִקְדָּשׁ, לֹא הָיוּ הַמִּשְׁתַּמֵּשׁ מִבְּיָאֵן אוֹתוֹ לְבֵית דִּין, אֵלֶּה פְּרִי כְּהֵנָה מִיִּצְחָק אוֹתוֹ חֲזוֹן לְעוֹרֵה וּפְרָקָן אֶת מוֹתוֹ בְּגִידֵי.

גִּזְרֵת הַקְּדוֹת הֵיא שְׁשֵׁן מִמִּינֵן בֵּית דִּין, וְלֹא מִלֵּקֶן אֶת הָאֵדָם, בְּהוֹדָעָה פִּי, אֵלֶּה עַל פִּי שְׁנֵי עֵדִים, וְהָיוּ שְׁתֵּי הַיּוֹשֵׁעַ עֵדֵן וְחֹדֶר לֹא עֲמֵלָה, וְהוֹדָעָה מִיָּתֵם - הוֹרָאָה שְׁעָה הַיּוֹמָה, אוֹ דִּין כְּלִמָּתוֹ הֵיא, אֲבָל הַסְּתוּדָה - אֵין מִמִּינֵן וְלֹא מִלֵּקֶן הַמִּשְׁתַּמֵּשׁ כְּבִנְיָה, שְׁמָא נִטְרָפָה דְּעוֹתוֹ בְּדָבָר זֶה, שְׁמָא מִן הַסְּתוּדָה קָרָה בְּשֵׁם הוּא, הַמִּשְׁתַּמֵּשׁ לְמוֹתוֹ, שְׁוִיָּהוּ הַמִּשְׁתַּמֵּשׁ לְבִטְוִן וּמִשְׁלִיכֵי עֵצִים מִעַל הַגִּבּוֹר, קָרָה זֶה בְּרֹא וְאִמְרוּ דָּבָר שֶׁלֹּא עָשָׂה, קָרָה שְׁוִיָּהוּ, וְלֵקֶל שֶׁל דָּבָר, גִּזְרֵת מִקְדָּשׁ הֵיא.

## Chapter nineteen

1 There are a total of 21 negative commandments that are punishable by *Karayit*, but which are not punishable by execution by the court, for which lashes are administered. They are: 1) a person who has relations with his sister; 2) ...with his father's sister; 3) ...with his mother's sister; 4) ...with the sister of his wife; 5) ...with his brother's wife; 6) ...with the wife of the brother of his father; 7) ...with a woman in the *niddah* state; 8) a person who eats forbidden fat; 9) ...blood; 10) ...leaven on Passover; 11) ...on Yom Kippur; 12) a person who performs forbidden labor on Yom Kippur; 13) a person who partakes of sacrificial meat after the designated time; 14) ...of sacrificial meat disqualified as *piggul*; 15) ...of sacrificial meat while ritually impure; 16) a person who enters the Temple Courtyard while ritually impure; 17) a person who slaughters a consecrated animal outside the Temple; 18) a person who burns a consecrated animal as a sacrifice outside the Temple; 19) a person who prepares the [anointing] oil [for personal use]; 20) a person who anoints himself with the anointing oil [for his own benefit]; 21) a person who prepares the incense offering [for his personal use].

2 There are a total of 18 negative commandments that are punishable by death by the hand of heaven.<sup>32</sup> whose transgression involves a deed, for which lashes are administered. They are: 1) a person other than a priest who partakes of primary *terumah* whether it was ritually pure or ritually impure; 2) a person other than a priest who partakes of *terumat ma'aser*; 3) a person other than a priest who partakes of the first fruits after they entered Jerusalem; 4) a person other than a priest who partakes of *challah*; 5) a person who partakes of *tevel* before the primary *terumah* and *terumat ma'aser* were separated from it;

<sup>30</sup> Like transgressions punishable by *Karayit*, violation of these transgressions causes a person to die prematurely. Unlike *Karayit*, however, such transgressions receive atonement through their death (the *Rambam's Commentary* to the *Mishnah* [*Sanhedrin* 9:6]).

4 There are a total of 168 negative commandments that are neither punishable by *Karayit*, nor by execution by the court, for which lashes are administered. They are: 1) a person who fashions an idol; 2) a person who makes an image for artistic purposes; 3) a person who turns to idolatry with any deed; 4) a person who erects a monument; 5) a person who plants a tree in the Temple; 6) a person who places down an engraved stone [on which to prostrate himself]; 7) a person who takes a vow in the name of a false divinity; 8) a person who takes an oath in the name [of a false divinity];<sup>33</sup> 9) a person who derives benefit from [a false divinity]; 10) a person who rebuilds a city [destroyed because] it was swayed [to idolatry]; 11) a person who benefits from [the property of such a city]; 12) a person who follows the statutes of the gentiles; 13) a diviner; 14) an augurer; 15) a reader of omens; 16) a person who casts spells; 17) a necromancer; 18) a person who erases [God's] name, or the like, e.g., he destroys a stone from the altar or destroys wood [consecrated to] the Sanctuary;

19) a person who extinguishes fire from the altar; 20) a person who ascends [the altar] with steps; 21) a person who enters the Temple Courtyard with impure garments; 22) a *zav*<sup>34</sup> and the like<sup>35</sup> who enters the Temple Mount; 23) a person who removes the staves of the ark; 24) a person who removes the [High Priest's] breastplate from his *ephod*; 25) a person who tears the collar of the [High Priest's] cloak; 26) a person who offers [anything else than the commanded offerings]<sup>36</sup> on the golden altar; 27) a priest who enters the Sanctuary while not in the midst of sacrificial worship; 28) [a priest with] a physical deformity who enters [the Sanctuary]; 29) [a priest with] who enters [the Sanctuary] while intoxicated; 30) [a priest with] a physical deformity who performs sacrificial worship;

<sup>33</sup> This is forbidden by the prohibition mentioned in the previous note. The *Lechem Mishneh* questions why lashes are given, for seemingly these are prohibitions that do not involve a deed.

<sup>34</sup> I.e., a *zavah*, a woman in the *niddah* state, or a woman who has given birth. In all these instances, the ritual impurity is a result of a physical condition.

<sup>35</sup> I.e., anything other than incense and the blood from the bull and the goat that was brought into the Holy of Holies.

א כל לא תעשה שלש בו קרוב  
אין בו מיתת בית דין שלוקין  
עליהן אחד וקשרים, ואילו הן:  
(א) הבא על אחותו, (ב) וצל  
אחות אביו, (ג) וצל אחות  
אמו, (ד) וצל אחות אשתו,  
(ה) וצל אשת אחיו, (ו) וצל  
אשת אחי אביו, (ז) וצל תורה,  
(ח) והואכל חלב, (ט) והואכל  
דם, (י) והואכל חמץ בקטור,  
(יא) והואכל ביום הכפורים,  
(יב) העושה מלאכה ביום  
המסורים, (יג) והואכל מטר,  
(יד) והואכל מטר, (טו) והקטם  
שאלל בשם הקדש, (טז) והקטם  
שאלל בשם הקדש, (יז) והקטם  
שאלל בשם הקדש, (יח) והקטם  
שאלל בשם הקדש, (יט) והקטם  
שאלל בשם הקדש, (כ) והקטם  
שאלל בשם הקדש, (כא) והקטם  
שאלל בשם הקדש.

ב כל מקריב מיתה ביד שמים  
שכן כלא תעשה ויש קרוב  
מקריב שלוקין עליהן - שמונה  
קשר, ואילו הן: (א) זר שאכל  
תרומה זולה, בין טהורה בין  
טמאה, (ב) זר שאכל תרומה  
טמאה, (ג) זר שאכל בטרם  
אמר שנקיים לירושלם, (ד) זר  
שאכל חלה, (ה) והואכל טבל  
אל הדם מלפני תרומה גדולה  
הנדרת קשר.

<sup>30</sup> Like transgressions punishable by *Karayit*, violation of these transgressions causes a person to die prematurely. Unlike *Karayit*, however, such transgressions receive atonement through their death (the *Rambam's Commentary* to the *Mishnah* [*Sanhedrin* 9:6]).

ד כל לא תעשה שבתורה  
קרוב ולא מיתת בית דין  
שלוקין עליהן - מנה שמונה  
קשרים, ואילו הן: (א) העושה  
צלם, (ב) העושה צורה לטר,  
(ג) הפונה אל האלילים בקדוש  
מן המעשים, (ד) המקיים מצוה,  
(ה) המטע אילן במקדש,  
(ו) העתיר און קשרים, (ז) העושה  
בשם עבודה זרה, (ח) העושה  
בשם הקדש, (ט) העושה כהן,  
עיר הנדחת, (יא) העושה מצוה  
הנדרת, (יב) העושה כקדוש  
העובדי מוכבים, (יג) העושה  
(יד) העושה, (טו) העושה,  
(טז) החובר, (יז) החובר אל  
המומים, (יח) העושה שם ויחזא  
בו, כגון חרס און מן המוסר או  
שורץ עץ מן המקדש,

(יט) והמכבה אש המקדש,  
(כ) והואכל עזו במעלות,  
(כא) הנכנס לעזרה בגדים  
טמאים, (כב) זב ויבוא בו  
שונקס לזה הבית, (כג) המסיר  
בדי הארון, (כד) המהיר חשן  
מל האמוד, (כה) הקורע פי  
המער, (כו) המקריב על מזבח  
הקרב, (כז) כהן שונקס לזה, (כח)  
שלא בשעת צבורה, (כט) שחיו  
מלפני שונקס לשם, (כס) שחיו  
שונקס לשם, (ל) כהל מל





120) a person who takes security from a widow and does not return it to her 121) a person who takes utensils used in the preparation of food as security 122) a young witness who is not penalized for perjury 123) a person who strikes a colleague with a blow that does not require a *prutah* to be paid as compensation 124) a wayward and rebellious son after the first testimony was delivered against him

107 | Chapman, Westerman, 1777  
From the Hebrew - English Mishnah, Torah  
26 This refers to a man who is the head of the Talmudic academy (see *Mishnah* Talmud Torah 16)  
15 Although names are not given, it is forbidden to create a colleague even without using G-d's name (*Shulchan Aruch*)  
14 depending on the circumstances it is used.

[illegible]

- Տես զիս  
Եկեաւ և՛ Լեւոն Եկեաւ Ռզ  
Ռզ ևն Եզրե. Եւն Հն՛. ա Ռ  
Եսս սեՀզ Եկեաւ Երլ Թնու  
Ռււ Եզրե՛ ա Թնուս ԵԶՀզ  
ա թեՀզ Եսն Թո Լզն Եո. Երլ  
ՌեՀ առ Հն Ենու Թո ԵնԻս  
Ռււ. Եթնա ԵՀ Երե. Հնու  
Լ. Ռ. ԵԶՀ. Ե. Ենու. Ե. Ե. Ե. Ե.

ԵՒ ԵՆ՝  
 ԻՆՈՒ - ԵՒ ՔՐԻՍՏՈՍ՝ ԵՒ ԶԷԶ՝  
 ԵՆԷ՛ ԵՄ՝ ՈՒ ՈՒ ԵԶ՝ ՈՐՈՒՄ՝  
 ՔՐԻՍՏՈՍ ԵՆԷ ՈՐՈՒՄ ԶԷԶԻՄ  
 ԶԷԶ ԵԶ՝ ՀՈՒՄ - ՈՐՇ՝ ՔՐԻՍՏՈՍ  
 ՈՐՇ ՈՒ ԶԷԶ ԵԶ՝ ՍՏԵՄԱ՝ ԵՆ ՈՒ  
 ԼԵՄ ԼԵՄ ԵՆ՝ ԼԵՄ՝ ԼԵՄ՝

[illegible]

4. A person is not punished by lashing unless he is given a warning in the presence of two witnesses as to the transgression of which he is guilty. The negative commandment is, however, a warning was not issued, a curse was uttered without mentioning God's name or a descriptive term, e.g. he said (ironically): "Curled be so-and-so," the curse was uttered indirectly, e.g. he said, "May so-and-so not be blessed unto God," or "May God not bless so-and-so" or "The life of his people be multiplied."

Which a person curses himself, a colleague, a *mafi*, or a judge, he does not receive insults unless he curses using one of God's names: *Kari Elohim, Shaddai*, or the like, or with one of the descriptive terms used to characterize [God], e.g., the Merciful One, the Vengeful One, or the like, or since a person is liable if he cursed (a colleague) with any of these descriptive terms, he is also liable if he cursed him in any other language. For the names with which the gentiles refer to the Holy One, blessed be He, are comparable to all of these descriptive terms.

13 This modification was pronounced by the prophet Isaiah in his  
 14 Constitutions. She cured Merey, an important personage of that time, because  
 15 he did not join Darius's troops (Isaiah). The Rembrandt cites this (quoting Ab  
 16 his the transposition performed by the person must be published.  
 17 59 | Chapman Watson, 577

8 Similarly, a judge may enter into a controversy with a person with whom it is necessary to enter into controversy, cursing him, reviling him, beating, having his hair pulled out, and compelling him to do things he has pulled out.

12 The court mentioned above contains the mention before the court. The court mentioned above contains the mention before the court.

7 Similarly, a Judge may apply a ban of ostracism to a person to whom communication is not ordinarily to be applied. According to his perception of what is necessary for the maintenance of law and order, he may communicate with him on this own conviction and this is not a violation of the right of free communication.

6 Similarly, at all times, a court has the prerogative to declare money belonging to others as ownerless. It may destroy [those funds] or give them to whomsoever they accrue as to close any breach as in the equity and to strengthen his observation or to penalize a suborn and difficult person. The Book of Ezra [1:8] states, "Whoever fails to come in three days according to the advice of the officers and the elders will have all of his property seized and the elders will have all of his property in three days according to the advice of the officers."

[This is applied, provided the rumor is heard continuously, as we explained, and he does not have any known enemies who would spread this unfavorable report.

Flamboyant Monday

09 / Chayene Vashchan 577

Canonica. She cured Merz, a he did not join Dark's troops (B) that the translation performed

12 The court understands and should con-  
be will realize that the action wa  
(Admitted)

community; a judge may  
with a person with whom  
into controversy, causing

who dwell with him are  
not come to the aid of God

tion or excommunication should be pronounced.

these measures would

effective).

in three days according  
cers and the elders will  
confiscated. From this

es in the fact and to str

6. Similarly, at all times

...on his mother in his pre-  
son may be humiliated  
...a person with

any known enemies with favorable report.

(Attachment: Monday















29 In his Commentary to the Mishnah (Avodah Zarah 1.2) the Rambam describes the shaving of the head as a pagan rite in which the sides of the head are shaved and a streak of hair is left in the middle. He associates this with the forbidden shaving of the corner of the head mentioned in Chapter 12, Mishnah 1-5.

77 The term "Gesellschaft" is a somewhat different. The original text of the Mishneh Torah still "Romani" or "Christians".

78 The Rambam does not mention the prohibition against doing business on Shabbat here, since that is forbidden in all cases independent of any connection to idol worship.

with that individual person.

[illegible]

ἡμέρῃ τῇ αὐτῇ ἐπὶ τῇ ἐκκλησίᾳ - καὶ  
 αὐτὸς αὐτὸν ἑαυτοῦ ὁμοῦ  
 ἡμέρῃ τῇ αὐτῇ ἐπὶ τῇ ἐκκλησίᾳ

in contrast, on a day which is celebrated by an individual gentle as a festival on which he gives thanks and praise to the star he

and praise to their names deserves to be considered to be one of their holidays, since it is comparable to their other holidays.

5 The day on which the gentiles gather together to crown a king and offer sacrifice and praise to their false deity is contemned and despised.

[illegible][illegible]

<sup>4</sup> The Canaanites<sup>(m)</sup> are idol worshippers, and Sunday is their festival. Accordingly, the Sabbath is a day of rest.

days, or on the three days preceding them.

3. If the gentiles' festival lasts several days -  
whether three, four, or ten - all the days [of  
the festival] are considered as a single day

וְהָיָה כִּי יֵרָאֶה אֶת הַמֶּלֶךְ וְנִשְׁכַּח מִפְּנֵי הַמֶּלֶךְ וְיֵרָאֶה אֶת הַמֶּלֶךְ וְנִשְׁכַּח מִפְּנֵי הַמֶּלֶךְ

18. *It is possible that he is feeling arising from him.*  
 19. *It is possible that he should not take it from him.*

Chapter Name \_\_\_\_\_



From the Hebrew - English/Arabic Lexicon

19. Conversely, a person must be warned before he is punished for committing a trespassation. In this instance, however, *Sankhadatta* 200 states that an exception is made and no warning is required. (See *Hitakat Samadhi* 11.5.)

3 A *mesit* does not need a warning.<sup>191</sup>

[illegible]

Let us go and bow down.

down. [Follow me.] I will go and bow down. or "Let us go and offer a libation," or "I will bow

օգնե իմանալու, քէ իմանալու, -  
 օգնե՛ք, քէ իմանալու, քէ իմանալու, -

that deity is served. [I will slaughter. (Follow me.)  
I will go and slaughter. or Let us go and slaughter.  
I will bring a burnt offering. (Follow me.)

ἔτι καὶ ὁρίστω αἰὶν καὶ ἀντίμου  
 εἴς τινος, ὁ δὲ ἰσχυρὸς, ἰσχυρὸς  
 εἰς τὸν ὁμοῦ καὶ ἀντίμου ὁμοῦ

A *man* should be spoken of as *men* whenever he proselytizes in plural terms or in singular.

to death.  
This is swayed by his words, he should be stoned

ἡ δὲ πόλις ἡμεῖς ἐσμὲν  
 ἡ δὲ πόλις ἡμεῖς ἐσμὲν  
 ἡ δὲ πόλις ἡμεῖς ἐσμὲν  
 ἡ δὲ πόλις ἡμεῖς ἐσμὲν

two people must proselytize them.

the people who were judged as un-  
-witnesses, and are not considered to be inhabitants  
of an estate to be applied.

If the person who leads the majority of a city astray is a prophet, he is executed by stoning, and

2. A person who proselytizes the majority of the inhabitants of a city is called a *madbachim* rather than a *mesit*.

Chapter 15





















all together.  
made mistakes, but not to churchmen.  
month or fifteen, if however the fees

[illegible][illegible]

Chapter 6

[illegible][illegible][illegible][illegible]

Chapters, 10

Chapter-Test

## Appendix 1

Служба



and he withdraws and kills the zealous person in order to save himself, the transgressor is not accounted for killing him.<sup>17</sup>

When a Jew has relations with the daughter of a resident alien,<sup>18</sup> the zealous may not strike him. [The transgressor] should, however, be given stripes for rebellious conduct.

e. If the zeatur did not strike him, nor did he receive stripes from the traditional punishment, it was explicitly stated in the words of the prophetic tradition that which is sacred to God [Y] loving and cherishing its relationship with the daughter of a foreign god, May God cut off from a man who does not have progeny among his people multiplied times that if he is an Israelite, he will not have [a] priest; he will respond. If he is a priest, he will not have [a] son among the scholars who will respond. If he is a priest, he will not have [a] son among the scholars who presents an offering to the Lord of Hosts." Thus you have seen how the prophet Isaiah has considered the situation as being considered as if he married a false deity, as the verse states: "Scribe upon a tablet the daughter of a foreign god." And he is called one who "desecrated that which is sacred to God."

Although this transgression is not punishable by execution by the court, it is not to be regarded lightly, for it leads to a detriment that has no parallel in any other forbidden sexual union. A child conceived from such a union is not only a child forbidden sexual union, but is also a child of a forbidden marriage, and is considered a member of the Jewish people, even if he is not so conceived by a gentile woman; by contrast, he is not considered his son. (This is derived from Deuteronomy 7:4.) For he shall away your son away from following Me. She turns him away from being one of those who follow God.

One, blessed be He, has separated us, and to turn away from following God, and to betray Him.

9. When a gentile engages in relations with a Jewish woman, if she is married, he should be executed.<sup>22</sup> If she is single, he is not executed.

10. 11. of contrast, a Jewish male enters into relations with a gentle woman when he does so intentionally, she should be executed.2) She is executed because she caused a Jew to be involved in an unseemly transgression, as [the

16. For the zealous person is considered as a 'rodef', pursuer, whom the intended victim has the right to slay, as stated in *Milchot Korach*, ch. 1.

17. As explained in Chapter 14, *Halachot 7*, this refers to a non-Jew who accepted the seven universal laws commanded to Noah and his descendants. In his Commentary to this

that causes him to lose his sexual potency. Lashes are not given, however. A woman is permitted to drink a potion to enable her to lose her sexual potency, so that she will not conceive.<sup>12</sup> If a person bound a man and set a dog or other animal upon him until his sexual organs were maimed or he made him sit it in water or snow until his sexual organs lost their potency, he is not given lashes, unless he castrated him by hand. It is, however, fitting to subject him to stripes for rebellious conduct.<sup>13</sup>

...that the Torah intended to test a Gentile to create one of our animals. If the Gentile took the animal and castrated it on his own initiative, it is permitted.<sup>171</sup> A Jew acts deceitfully in this context, if he should be punished and required to sell the animal to another Jew. He may [sell it] to his son who is part majority, but not to his son who is below majority, nor may he give it to him.<sup>172</sup>

## CHAPTER SEVENTEEN

Bound by five prohibitions against sexual intercourse with a widow, a divorcee, a *zonah*,<sup>1</sup> and a *challalah*.<sup>2</sup> There are four [forbidden to] a High Priest: these three and a widow.

the oil of anointment<sup>3</sup> on one who assumed his position by wearing the additional garments,<sup>4</sup> one serving in that capacity, a High Priest who was appointed and then removed from the office, and a priest anointed to lead a war.<sup>5</sup> All of these are commanded [to marry] a virgin and are forbidden to marry a widow.<sup>6</sup>

for any priest or priestess or matron; one of these three women - whether a High Priest or an ordinary priest - and engages in relations is punished by lashes. If he enters into promiscuous relations with her, he does not receive lashes for [violating the prohibitions against] a *zonah*, a divorcee, and a *gaulah*. [This is derived from the fact that Leviticus 21:7 states the prohibition using the term:] "They shall not take." [Implied is that the prohibition does not apply] unless he takes - marries - (the woman) and enters into relations with her."

16. The punishment given for violating a Rabbinic commandment.  
17. As long as the Gentile acted on his own initiative, the Israelite was not liable for his actions.

18. I.e., encouraging a gentle to castrate the animal without actually telling him to do so. 19. For a case below, majority is not considered as having an independent financial domain. 20. This term is defined in depth in the following chapter. 21. This term is defined in Chapter 19.

the law, with regard to) an animal.<sup>34</sup> [This applies regardless of] whether the female woman was single or married and if three years or ago, or an adult, whether she was single or married and if she applies even if [the Jew] was a minor or nine years old. [she is excused], as

3:11-16:1 status: "Behold they were [involved] with the [priests] and [priests] according to the advice of Balaam....<sup>35</sup> Execute any woman fit to know a man through lying with a male."

[illegible]

Torah requires that lashes be given for [relations with] a maid-servant unless she was designated for a [Jewish] man, as we explained.<sup>24</sup>

involutive linkages aggression snollida not be light in one's eyes because it does not be turned away from following God. For a son born of a maid-servant is a servant and is not a [full] member of Israel. Thus he causes [Israel's] holy seed to be profaned and to produce servants. Behold Onkelos the translators included translations of a servant and a maid-servant in the prohibitions, Deuteronomy 23:18: "There shall not be a promiscuous man... and there shall not be a promiscuous woman."<sup>26</sup>

zealous person may not strike him, not even at the time of the transgression.<sup>37</sup>

224. See Chapter 1: Hamaohi 16-18.  
225. If, however, she is younger than

227. Who advised the Midianites and the Moabites to have their women seduce Jewish men to provoke God's wrath.

19. [The following rules apply if] a rumor begins to circulate: "So-and-so, the film star, wrote..." or "...gave a girl for his wife," and she lives with him and expects another child, <sup>20</sup> she should be divorced from her husband as if she married another priest, <sup>21</sup> she should be forced to be divorced.<sup>22</sup>

divorced after circulation in a city that a woman was consecrated and then *Michot Gerushin*.<sup>69</sup> If, however, a rumor is circulated that she is a *chavritzah*, her [status] does not become suspect.<sup>70</sup>

2A. If a rumor is circulated that a virgin has engaged in relation, her [status] does not become suspect and she may marry a High Priest. If a rumor is circulated that she is a maid-servant, her [status] does not become suspect and she may marry a priest.<sup>71</sup>

does not have a bar attendant in a city that she is acting promiscuously,"<sup>33</sup> her [marriage] voided the principles of . . . Even if her husband repented from her because she violated the principles of . . . and by the Jewish faith or because she [gave] her a *get*, she is permitted [to marry] a priest. For . . . but he did better [giving her a *get*, she is permitted [to marry] a priest. For . . . but he did better [that she acted promiscuously] or she amiss [doing so] herself."

## CHAPTER EIGHTEEN

34. In the case of an *infamelle*, there would be no prohibition to marry him.<sup>5</sup>

remarried his divorcee. In the case of a priest, however, this would be forbidden, for a priest is forbidden to marry any divorcee, even his own.<sup>155</sup> For a rumor that follows a marriage is not sufficient grounds to require a divorce.<sup>156</sup> After being widowed from her first husband, since the husband was a leathery, wild woman would be no difficulty, for it is possible that he remarried his divorcee.

the United States and other precedents the second marriage, the second priest should not have married him, because of the doubt regarding the validity of the marriage that the rumor caused. And since he married her in possible violation of the law, he is forced to divorce her.

As stated in *Hitcher Ishtar* 9122, we are speaking about a rumor that has been substantiated by a court. It is not conclusive evidence that a woman has been

0. Since a *chavalatseh* is forbidden only because of a Rabbinic ordinance, when we are not certain the woman performed this rite, there is no prohibition. (The Mishnah has been constricted, but it is far from mere hearsay. If a rumor has not been substantiated in a court, it is of no substance.)

10. Chapter 10, Halaachah 20.

the Ka'avad, however, rules stringently and maintains that since we are speaking about a rumor with substance, even a rumor that she is a *chaliwrah* can cause her to be forbidden. We do not disqualify a woman when there is a question about her lineage unless there is explicit testimony that she is not acceptable (*Ma'agid Mishneh*).





## 10 MISHNEH TORAH

## Chapter 1

he is not liable for *karat* or lashes. Needless to say, he is not liable for execution. For this is not considered sexual intercourse. Nevertheless, [such an act] disqualifies a woman from partaking of *terumah*.<sup>32</sup> And the court subjects both of them to stripes for rebellious conduct.<sup>33</sup>

12. When a person enters into sexual relations with one of the *arayot* as a casual act,<sup>34</sup> although he did not intend to do so, he is liable.<sup>35</sup> Similar concepts apply with regard to one who enters into relations with women forbidden by a negative commandment alone or with one of the *shniyot*.<sup>36</sup> When, however, a man has relations with one of the *arayot* after she died, he is not liable at all.<sup>37</sup> Needless to say, this applies with regard to those women with whom relations are forbidden by a negative commandment alone. When, by contrast, one has relations with a person who is *traifah*<sup>38</sup> or who has relations with an animal which is *traifah*, he is liable. [The person or the animal] is [now] alive even though he will ultimately die from this illness. Even when the two signs<sup>39</sup> which validate ritual slaughter were slit but [the woman or the animal] is making its last movements, if one enters into relations with [her or it], he is liable until she or it dies or is decapitated.

13. When an adult male enters into relations with any of the women forbidden in connection with the above transgressions who is three years and one day old or more,<sup>40</sup> he is liable for execution, *karat*, or lashes and she is not liable<sup>41</sup> unless she is past majority. If she is younger than this, both participants are not liable, for the act is not considered as sexual relations.<sup>42</sup> Similarly, when an adult woman enters into sexual relations with a minor, if he is nine years and one day old, she is liable for execution, *karat*,<sup>43</sup> or lashes and he is not liable. If he is younger than nine years old, they are both free of liability.<sup>44</sup>

12. I.e., if a priest's daughter or a priest's wife is involved in such a sexual act, she is forbidden to partake of *terumah* just as if she would be forbidden to do so had she engaged in ordinary relations (see *Hilchot Terumah* 6:6).

33. "Stripes for rebellious conduct" is a punishment which is not dependent on the Torah's binding laws, but rather is left to the court's jurisdiction based on its conception of what is appropriate for the moral standards of the persons involved and the community. Although such an act is not formally considered as sexual relations, chastisement is necessary to prevent such behavior from continuing.

34. The Hebrew term *kinitasak* literally means "as one was going about his business," i.e., he was performing other actions and without any intent, the forbidden act was performed.

35. Since he derived pleasure from the physical act, he is liable even though originally he had no intent (*Ye'vamo* 62b).

This refers only to liability for a sin offering for inadvertent transgression. Needless to say, he is not liable for punishment by the court, because in such instances, he must acknowledge a warning (*Maggid Mishnah*).

The commentators question how sexual relations can be performed "as one was going about his business." With regard to the Sabbath prohibitions, we can appreciate the use of

## 146 MISHNEH TORAH

## Chapter 11

after these seven, she must count [a further] seven "spotless" days. This is not a [proper] custom.<sup>30</sup> Instead, it is an error on the part of the one who ruled in this manner and is not worthy of being given any consideration.<sup>31</sup> Instead, [the law is that if a woman experiences] one day of menstrual bleeding, she should count seven "spotless" days afterwards and immerse on the night [following] the eighth day,<sup>32</sup> which is the second day after her ["days of"] *niddah*.<sup>33</sup> She is [then] permitted to her husband.

15. Similarly, in certain places, the practice is - and support for this is found in the responsa of some of the *Geonim* - for a woman who gives birth to a male not to engage in relations until the conclusion of forty days and for one who gives birth to a female [to refrain] until after eighty days,<sup>34</sup> even though they discovered bleeding only during the [first] seven days. This is not a [proper] custom. Instead, these responsa are in error and indeed [the observance of this practice] in these places is of a heretical nature.<sup>35</sup> They learned this interpretation from the Sadducees.<sup>36</sup> It is a mitzvah to compel [these people] to remove [this improper custom] from their hearts and to return them to [the observance of] the words of the Sages who require only the counting of seven "spotless" days as explained.

16. A woman does not ascend from her state of ritual impurity and cease being considered as an *arayot* until she immerses herself in a *mikveh* that is halachically acceptable while there are no substances intervening between her flesh and the water.<sup>37</sup> In *Hilchot Mikvaot*, we will explain what defines a *mikveh* as acceptable and what disqualifies it, the manner in which one should immerse, and the laws concerning intervening substances.

If, by contrast, she washes in a bath - even if all the water in the world passes over her - her state is the same as before washing [and a man who engages in relations with her is liable] for *karat*. For there is no way of ascending from a state of ritual impurity to one of purity except through immersing in the waters of a *mikveh*, a spring, or a sea which is like a spring, as will be explained in *Hilchot Mikvaot*.

17. In the present age, although the seven "spotless" days [are observed only because of] doubt,<sup>38</sup> if a woman immerses herself during them, it is as if she did not immerse herself.<sup>39</sup> If she immerses herself on the seventh day,<sup>40</sup> the immersion is valid even though it is forbidden to do so at the outset, lest one engage in relations on the seventh day after the immersion.<sup>41</sup> [The rationale is

30. The Rama (*Yoreh De'ah* 196:11) also mentions the practice cited by the Rambam. He also negates it saying, "There is no reason for the practice... A person who is lenient earns a reward and hastens his [involvement in] the mitzvah."

31. Although the halachic authorities are unanimous in their support of the Rambam's ruling, the custom he quotes has a Rabbinic source in *Midrash Tanchuma, Parshat Metzora*, sec. 7.

## 22 MISHNEH TORAH

## Chapter 1

14. When a man enters into relations with a male or has a male enter into relations with him, once the corona is inserted [into the anus], they should both be stoned if they are both adults. As [Leviticus 18:22] states: "Do not lie with a man, [holding one liable for the act, whether] he is the active or passive partner."

If a minor of nine years and a day or more is involved, the man who enters into relations or has the minor enter into relations with him should be stoned and the minor is not liable. If the male [minor] was less than nine years old, they are both free of liability.<sup>42</sup> It is, however, appropriate for the court to subject the adult to stripes for rebellious conduct for homosexual relations<sup>43</sup> although his companion was less than nine years old.

15. One is liable for anal intercourse with an *androgynus*<sup>44</sup> just as one is liable for relations with another male. One who engages in vaginal intercourse with [an *androgynus*] is not liable.<sup>45</sup>

There is a doubt concerning the gender of a *tumtum*.<sup>46</sup> Therefore a person who has relations with a *tumtum* or vaginal intercourse with an *androgynus* should be given stripes for rebellious conduct.<sup>47</sup> An *androgynus* may marry a woman.<sup>48</sup>

16. When a person sodomizes an animal or has an animal insert its organ in him [or her], both the person and the animal should be stoned to death,<sup>49</sup> as [Leviticus 18:23] states: "Do not lie down with any animal," prohibiting [such relations] whether he sodomizes the animal or has the animal enter him. All [living creatures] animals, beasts, and fowl should be stoned to death.<sup>50</sup> The whether it is young or old. "Any animal" implies a prohibition on the day of its birth. Whether the person enters into vaginal or anal intercourse with the animal, when he inserts the corona or the animal inserts the corona within him, they are liable.

17. When a boy / nine years old sodomizes an animal or has an animal engage in relations with him, the animal should be stoned, but he is not liable.<sup>51</sup> If the boy was less than nine years old, the animal is not stoned. Similarly, when a girl three years old or more causes an animal or a beast to have relations with her, whether it is an older animal or a younger animal, once the corona of the animal is inserted into her vagina or anus, the animal is stoned to death and

45. For sexual relations with a male below the age of nine are not of consequence. Nevertheless, it is forbidden to enter into such relations (the Rambam's Commentary to the *Mishnah, Sanhedrin* 7:4).

46. Although he is not liable according to Scriptural Law, his act certainly warrants punishment that will discourage him from continuing this pattern of conduct.

47. A person with male and female sexual characteristics.

## 174 MISHNEH TORAH

## Chapter 14

in this world [reflects] the good that is hidden away for them. For they cannot receive an abundance of good in this world as the gentiles do. For their hearts may become haughty and they will err and lose the reward of the World to Come, as [Deuteronomy 32:15] states: "Jeshurun became fat and rebelled."<sup>11</sup>

5. "The Holy One, blessed be He, brings upon them an abundance of retribution solely so that they will not perish. For all the other nations will perish and they will prevail."

We elaborate on this concept to make them feel cherished. If [the prospective convert] retreats and does not want to accept [the mitzvot], he goes on his way. If he accepts [their observance], we do not have him wait, but instead circumcise him immediately.<sup>12</sup> If he was [already] circumcised, we draw the blood of circumcision from him.<sup>13</sup> We wait until he heals entirely<sup>14</sup> and then immerse him.

6. Three [judges] stand over him and inform him about some of the easy mitzvot and some of the more severe ones a second time while he stands in the water.<sup>15</sup> If the convert was female,<sup>16</sup> women position her in the water until her neck while the judges are outside. [The judges then enter and] inform her about some of the easy mitzvot and some of the more severe ones while she is sitting in the water. Then she immerses herself in their presence. Afterwards they turn their faces away and depart so that they will not see her when she ascends from the water.

7. What is meant by a resident alien? A gentile who make a commitment not to worship false deities and to observe the other [six] universal laws commanded to Noah's descendants. He does not circumcise himself nor immerse. We accept this commitment and he is considered one of the pious gentiles.

Why is he called a resident? Because we are permitted to allow him to dwell among us in *Eretz Yisrael*, as explained in *Hilchot Avodah Zarah*.<sup>17</sup>

a share in the World to Come. Among the resolutions offered is that "All of Israel have a share in the World to Come" (*Sanhedrin* 10:1). By virtue of the essential Godliness of the Jewish soul, they are inherently worthy of a portion in this eternal good. A gentile must, however, earn his portion through his deeds. It is not "hidden away" for him.

11. I.e., the outcome of prosperity was not increased observance, but the opposite: rebellion against God's will.

12. For we do not postpone the performance of a mitzvah.

13. I.e., a small wound is made on his male organ to draw blood for the sake of the covenant. The expression "the blood of the covenant" is derived from Exodus 24:8. See also Zechariah 9:11.



## CHAPTER FOURTEEN

1. What is the procedure when accepting a righteous convert? When one of the gentiles comes to convert, we inspect his background.<sup>1</sup> If an ulterior motive for conversion is not found, we ask him:<sup>2</sup> "Why did you choose to convert? Don't you know that in the present era, the Jews are afflicted, crushed, subjugated, strained, and suffering comes upon them?"

If he answers: "I know. Would it be that I be able to be part of them?"<sup>3</sup> we accept him immediately.

2. We inform him of the fundamentals of the faith, i.e., the unity of God and the prohibition against the worship of false deities. We elaborate on this matter.<sup>4</sup> We inform him about some of the easy mitzvot and some of the more severe ones. We do not elaborate on this matter.<sup>5</sup> We inform him of the transgressions of [not leaving] *lekai, shlichachah, pe'ah*,<sup>6</sup> and the second tithe.<sup>7</sup> And we inform him of the punishment given for [violating] the mitzvot.

What is implied? We tell him: "Before you came to our faith, if you partook of fat, you were not liable for your soul to be cut off. If you desecrated the Sabbath, you were not liable to be stoned to death. Now, after you convert, if you partake of fat, you are liable for your soul to be cut off. If you desecrate the Sabbath, you are liable to be stoned to death."

We do not teach him all the particulars lest this cause him concern and turn him away from a good path to a bad path. For at the outset, we draw a person forth with soft and appealing words, as [Hoshua 11:4] states: "With cords of man, I drew them forth,"<sup>8</sup> and then continues: "with bonds of love."<sup>9</sup>

3. Just as he is informed of the punishment [for disobeying] the commandments, so, too, he is informed about the reward for [their observance]. We tell him that by observing these mitzvot, he will merit the life of the World to Come. For there is no completely righteous man other than a master of wisdom who observes these mitzvot and knows them.

4. We tell him: "Know that the World to Come is hidden away only for the righteous; they are the Jews."<sup>10</sup> The fact that you see Israel suffering difficulty

1. See Chapter 13, Halaachah 14.

2. The halachah is quoted from *Yevamot* 47a. As early as the Talmudic era, potential converts were dissuaded in this manner.

3. Our translation is based on Rashi's commentary to *Yevamot*, loc. cit.

4. Because they are the fundamentals of our faith (*Maggid Mishneh*).

5. This law, quoted by the *Shulchan Aruch* (*Yoreh De'ah* 268:2) indicates that even the opinions which require a convert to accept the observance of the mitzvot do not require

8. We accept resident aliens only during the era when the Jubilee year is observed.<sup>11</sup> In the present era, even if a gentile makes a commitment to observe the entire Torah with the exception of one minor point,<sup>12</sup> he is not accepted.<sup>13</sup>

9. When a servant is purchased from the gentiles, we do not say: "Why did you choose to convert?"<sup>14</sup> Instead, we say to him: "Do you desire to enter the category of Jewish servants and become one of the upright among them?" If he agrees, he is informed about the fundamentals of the faith, about some of the easy mitzvot and some of the more severe ones, and the punishments and rewards [associated with them] as we notify a convert. [Then] we immerse him as we immerse a convert and inform him [of the mitzvot] while he is in the water.

If he does not desire to accept [the status of a servant], we are patient with him for twelve months. Afterwards, we tell him that he is forbidden to maintain him for a longer period.<sup>15</sup> If at the outset, he established a condition that he would not be circumcised or immersed, but instead would be a resident alien, it is permissible to maintain him in that status.<sup>16</sup> A servant may be maintained in this status only during the era when the Jubilee is observed.

10. The only sexual women with whom a gentile forbidden to engage in relations are: his mother, his father's wife, his maternal sister, a married woman, a male, and an animal, as will be explained in *Hilchot Melachim* [*Ullachomoteihem*].<sup>17</sup> Other [incestuous] relations forbidden the Jews are permitted to them.

11. When a gentile converts or a servant is freed,<sup>18</sup> he is like a newborn baby.

Me." Since gentiles may turn into a negative spiritual influence, they should be prevented from dwelling in the land. If, however, a gentile has made a commitment to the observance of those seven laws, he will not lower the moral climate of the land.

As explained by the commentators to *Hilchot Avodot Kochavim*, the Rambam's opinion is not universally accepted. The Ra'avad interprets the prohibition as referring to the seven Canaanite nations alone. Never, he claims, were other gentiles prohibited from living among us.

12. The Jubilee must be observed only when the entire Jewish people are dwelling in *Eretz Yisrael*. Therefore when the tribes of Reuven and Gad, and half the tribe of Menasheh were exiled by the kingdom of Assyria (this took place approximately 150 years before the destruction of the First Temple), the laws of the Jubilee ceased to be observed according to Scriptural Law (*Hilchot Shemittah VYovel* 10:8).

13. The Rambam's source (*Sachorot* 30b) states: "One minor point of Rabbinic Law." The commentators question why the Rambam omits this point.

14. As the Rambam states in *Hilchot Avodot Kochavim*, loc. cit., in the present era, we accept only full converts. Implied is that in the present era, were we to have the authority, we should prevent gentiles from living in *Eretz Yisrael*.

The Ra'avad differs with the Rambam concerning this point, explaining that with regard

in this world [reflects] the good that is hidden away for them. For they cannot receive an abundance of good in this world as the gentiles do, for their hearts may become haughty and they will err and lose the reward of the World to Come, as [Deuteronomy 32:15] states: "Jeshurun became fat and rebelled."<sup>19</sup>

5. "The Holy One, blessed be He, brings upon them an abundance of retribution solely so that they will not perish. For all the other nations will perish and they will prevail."

We elaborate on this concept to make them feel cherished. If [the prospective convert] retracts and does not want to accept [the mitzvot], he goes on his way. If he accepts [their observance], we do not have him wait, but instead circumcise him immediately.<sup>12</sup> If he was [already] circumcised, we draw the blood of circumcision from him.<sup>13</sup> We wait until he heals entirely<sup>14</sup> and then immerse him.

6. Three [judges] stand over him and inform him about some of the easy mitzvot and some of the more severe ones a second time while he stands in the water.<sup>15</sup> If the convert was female, [a woman] position her in the water until her neck while the judges are outside. [The judges then enter and] inform her about some of the easy mitzvot and some of the more severe ones while she is sitting in the water. Then she immerses herself in their presence. Afterwards, they turn their faces away and depart so that they will not see her when she ascends from the water.

7. What is meant by a resident alien? A gentile who make a commitment not to worship false deities and to observe the other [six] universal laws commanded to Noah's descendants. He does not circumcise himself nor immerse. We accept this commitment and he is considered one of the pious gentiles.

Why is he called a resident? Because we are permitted to allow him to dwell among us in *Eretz Yisrael*, as explained in *Hilchot Avodot Zarah*.<sup>17</sup>

a share in the World to Come. Among the resolutions offered is that "All of Israel have a share in the World to Come" (*Sanhedrin* 10:1). By virtue of the essential Godliness of the Jewish soul, they are inherently worthy of a portion in this eternal good. A gentile must, however, earn his portion through his deeds. It is not "hidden away" for him.

11. I.e., the outcome of prosperity was not increased observance, but the opposite: rebellion against God's will.

12. For we do not postpone the performance of a mitzvah.  
13. I.e., a small wound is made on his male organ to draw blood for the sake of the covenant. The expression "the blood of the covenant" is derived from Exodus 24:8. See also Zechariah 9:11.

Any relatives whom he had as a gentile or a servant are no longer considered his relatives. If both he and they convert, he is not liable for relations with any of them.

12. According to Scriptural Law, a convert may marry his mother or his maternal sister after they convert. Nevertheless, our Sages forbade this so that [the converts] will not say: "We came from a more severe level of holiness to a less severe one. Yesterday, this [relationship] was forbidden and today, it is permitted."<sup>17</sup>

Similarly, when a convert engages in relations with his mother or his sister when they have not converted, it is considered as if he had relations with a woman with whom he was not related.

13. What is the law that applies to converts with regard to relations with their relatives? As we explained, if one was married while a gentile to his mother or his sister and they converted, we separate them as explained [above]. If he was married to any one of the other forbidden relations and he and his wife converted, they are not forced to separate.<sup>18</sup>

A convert is forbidden to marry his maternal relatives after they convert according to Rabbinic Law. He may, however, marry his paternal relatives. [This applies] even when he certainly knows that these persons are his paternal relatives,<sup>19</sup> for example, twins, in which instance it is clear that the father of one is the father of the other. Nevertheless, our Sages did not enforce a decree with regard to one's paternal relatives.

Accordingly, a convert may marry the wife of his paternal brother, the wife of his father's brother, his father's wife,<sup>20</sup> and his son's wife. [This applies] even if they married his brother, his father, his father's brother, or his son after they converted.<sup>21</sup> Similarly, his mother's paternal sister, his paternal sister, and his daughter who converted are permitted to him. He may not, however, marry his maternal sister, his mother's maternal sister, nor a woman who married his maternal brother after he converted. If, however, a woman married his brother while he was a gentile,<sup>22</sup> she is permitted to him.

14. When two twin brothers were not conceived in a state of holiness, but they were born in a state of holiness,<sup>23</sup> each one is liable [for relations with the other's wife] because of the prohibition against relations with a brother's wife.<sup>24</sup>

27. I.e., it would appear that he was bound by more severe prohibitions before conversion.

28. This applies even to maternal relatives. Since they were married before, we do not force them to separate (*Shulchan Aruch* 269:2). We do not fear that these converts will say that they entered a lower level of holiness, because there are relations - a mother and a sister - which they are forbidden. This makes it obvious that the distinction in the laws results from their change in status (*Kesef Mishneh*).

29. I.e., one might say that the reason for the prohibition is that one is certain that he is



13. When a girl receives *tsudushin* without her father's knowledge before she reaches the age of majority, the marriage bond is not established.<sup>17</sup> (This

17. If [the husband] desires to remain married to [his wife] after causing her to forfeit the fundamental requirement of the marriage contract, he must write her [a new *ketubah* for] 100 [duzi]. For it is forbidden for a man to co-mingle with his wife for even one moment without a *ketubah* as we have explained."

Our Sages also ordained that the fruits of a wife's labor should parallel her existence, [the obligation to] redeem her should parallel [the right to] the

11 her father, not to her, the marriage was consummated, and then she was either divorced  
or widowed. In this and the above instance, the girl does not have sufficient authority to  
create a marriage bond that is binding according to Scriptural Law. Nevertheless, a bond

I. e., a less severe oath instituted by the Rabbis. (See *Mitchet To'en V'Nilan* (13).) She, however, does not believe in it. (See *ibid.*)

445. In a less severe oath instituted by the Rabbis. (See *Fittcher's Ten Commandments* 1:3.) 446. She, however, because of opportunity of paying the debt until she is divorced or becomes widowed, because all her property is under lien to her husband and he is entitled to her earnings. 447. For example, movable property and not landed property that was sold, the oath that the woman is required to take is more lenient than that mentioned in the previous halachah.

If, however, her brothers had not ceased providing her with her sustenance [although] she reached *bagrut*, she is not considered to have forfeited her dowry as long as they continue to provide her with her sustenance, even though she did not protest. For she can claim that she did not demand her dowry because [her brothers] are supporting her although they are not obligated to do so,<sup>14</sup> and she has not yet married.<sup>15</sup>

14. [The following rules apply when a man] stated — whether while making an oral will before death or while healthy — that his daughter should be given a specific sum of money as a dowry, and that this sum should be used to purchase landed property, and [then] died [afterwards].  
When the money is in the possession of a third party and the daughter states: "Give the money to my husband and let him do with it as he desires," [the third party should do as follows]. If [the daughter] has reached the age of majority and has married, she is granted this prerogative.<sup>16</sup> If she is [past majority, but merely] consecrated, the third party should follow the instructions he was given.<sup>17</sup> And if she is a minor, even if she is already married, her request is not heeded.<sup>18</sup> Instead, the third party should carry out her father's instructions.<sup>19</sup>

## CHAPTER TWENTY-ONE

1. A husband is entitled to [any ownerless objects] discovered by [his] wife, and the proceeds of her labor.<sup>2</sup> What [type of work] must she perform on his behalf? Everything follows the custom of the country. In a place where it is customary for women to weave, she should weave. [In a place where they] spin, she should spin. [In a place where they] spin wool or flax,

If it is not customary for women in that place to perform these labors, he may compel her only to spin wool; [wool, but not flax,] because flax damages [a woman's] mouth and lips. [This occupation is chosen because] spinning is a task designated for women, as [implied by Exodus 35:25]: "And all the skilled women put their hands to spinning...."

2. If a woman exerts herself and produces more than would be expected of her,<sup>3</sup> her husband is entitled to the extra amount.<sup>4</sup>

24. Hence, she is ashamed to come to them with this request (*Ketubot* 68b).  
25. Implied is that once a *bogeret* marries without demanding her dowry, she has forfeited it even though her brothers continue to provide her with her sustenance (*Maggid Mishneh*). In his *Kessef Mishneh*, Rav Yosef Caro writes that if the brothers of a *na'arah* continue to provide her with her sustenance after marriage, she does not forfeit her dowry, even if she does not protest. Although his wording in the *Shulchan Aruch* (*Even HaEzer* 1:37) is slightly problematic, the later authorities explain that this is his intent. A source for both the statements of the *Maggid Mishneh* and the *Kessef Mishneh* can be seen in the Rambam's Commentary to the *Mishnah* (*Ketubot* 6:6).

If the wife brings two maids to [the household] or property with which two maids could be purchased, or if the man possesses two maids or is [wealthy] enough to purchase two maids, the wife is not required to cook or to nurse her child. Instead, she gives him to a maid to nurse.<sup>12</sup>

7. Thus, there are five tasks that every woman must perform on behalf of her husband: to spin [thread], to wash his face, hands and feet, to pour beverages for him, to make his bed and to do his bidding. And there are six tasks that some women perform and some women do not perform. They are: to grind [flour], to cook, to bake, to do laundry, to nurse, and to place straw before her husband's beast.

8. All the tasks that a woman must perform on behalf of her husband must also be performed by a woman while she is in the *niddah* state, with the exception of pouring beverages, making his bed and washing his face, hands and feet. [The rationale for the exceptions is that] this is a decree, [enacted] lest [sexual] thoughts arise, and the husband be prompted to engage in relations.

Therefore, when she is in the *niddah* state, she should make his bed when he is not present. When pouring a beverage for him, she should not place it in his hand as is her usual practice, but rather leave it on the ground, on a utensil or on a table, and he will take it.<sup>13</sup>

9. When a woman breaks utensils while performing household tasks,<sup>14</sup> she is not held liable. This ruling does not reflect the dictates of the law, but is instead an enactment [of our Sages]. For if this were not the case, there would never be peace in a household. For a woman would be overly cautious and would refrain from performing many tasks, and there would thus be strife between [the couple].<sup>15</sup>

10. Whenever a woman refrains from performing any of the tasks that she is obligated to perform, she should be compelled to do so, even with a rod.<sup>16</sup> When a husband complains that [his wife] does not perform [her required tasks], and [the wife] claims that she does, [the dispute should be clarified by having] a [neutral] woman dwell with them or [by asking] the neighbors.<sup>17</sup> The judges should clarify the matter in the best way they see fit.

11. During the time a woman nurses her child, she is not compelled to perform as many tasks [as usual], and wine and foods that are beneficial to nursing are added to her support.

12. The commentaries mention the importance of selecting a Jewish nursemaid. For milk that comes from non-kosher food will breed undesirable tendencies in the son's character.

13. The Rambam does not mention washing her husband, because his wife is forbidden to touch him while in the *niddah* state. (See *Hilchot Issurai Bi'ah* 1:18-19.)  
14. The *Chetkai Mechokek* 80:29 states that based on the *Serusalem Talmud*, this law applies even when she breaks household articles while she is not in the midst of her household chores.

Even when her husband is very wealthy and even when the woman has several maids, she may not sit idle, without work. For idleness leads to lewdness. [Her husband] may not, however, compel her to work for the entire day. Instead, according to the extent of his wealth, her obligation to work is minimized.

3. When a man takes a vow that prevents his wife from doing any work at all, he is obligated to divorce her and pay her [the money due her by virtue of her] *ketubah*. [The rationale is that] idleness leads to lewdness.<sup>4</sup>

Every wife is obligated [to perform the following household tasks] on behalf of her husband: to wash his face, feet and hands, to pour him beverages, to make his bed,<sup>5</sup> and to do his bidding — e.g., to bring him water or a utensil, to remove an article from his presence, or to perform similar tasks. She is not, however, required to do the bidding of his father or his son.

4. These tasks should be performed only by a man's wife alone.<sup>6</sup> Even if she possesses several maids, these tasks are performed for a man only by his wife.

5. There are other tasks that a woman performs for her husband when they are poor, [among them, to bake bread in an oven.<sup>7</sup> Ezra ordained that a woman get up early and bake bread so that there will be bread available to give the poor.

She should cook food, wash clothes, nurse her child, place straw before her husband's beast<sup>8</sup> — but not before his cattle — and grind [flour].

What does grinding [flour] involve? [Not that the woman actually operates the mill herself,] but that she stays at the mill, sifts<sup>9</sup> the flour and prods the animal [who turns the mill], so that [the operation of] the mill will not be hampered. If it is the [local] custom, for women to grind [flour] using a hand mill, [a woman] should grind [flour in this manner].

6. When does the above apply? With regard to a poor [couple]. If, however, a woman brings a maid to [the household] or property with which a maid could be purchased, or if the man possesses a maid or funds with which a maid could be purchased, the wife is not required to grind [flour], to bake, to do laundry or to place straw before her husband's beast.

worked overtime, more hours than common custom requires, b) that she performed several tasks at one time.

4. There are authorities who differ with the Rambam and maintain that a woman is entitled to keep the additional amount she earns. The *Beit Chadash* (*Even HaEzer* 80) states that it is not Ashkenazi custom to require a woman to give her husband any of her additional earnings.

5. Literally, "he is." Many manuscript copies and early printings of the *Mishneh Torah* state "he and she are." Instead of "he is."

6. Hence, rather than compel a woman to follow a course of conduct that will lead to wanton behavior, *Ketubot* 29b requires the husband to divorce his wife.

When, by contrast, a mentally capable man marries a deaf-mute, he is not entitled to inherit her estate when she dies.<sup>10</sup> When, however, a deaf-mute marries a mentally capable woman and dies, he should inherit her estate. For she is capable of understanding and married him voluntarily. [In doing so,] she gave him a right to her property.<sup>11</sup>

5. When a *k'tanah* was consecrated with her father's consent, but married without his consent — whether in his presence or outside his presence — her father has a right to object, as we have explained.<sup>12</sup> [In such a situation,] if the girl dies, her husband should not inherit her estate, even if the father remains silent, unless he expressed his consent to her marriage.

6. The *geonim* ruled that when a woman falls sick and asks her husband to divorce her so that he will not inherit her estate, her words are of no consequence, (even if she agrees to) forfeit her *ketubah*. Even if she says: "I hate him and no longer desire to live with him," her words are not heeded, and she is not judged as a woman who rebels against her husband.<sup>13</sup> This is a desirable ruling.

7. During a woman's lifetime, her husband enjoys the benefits of all the property she owns, regardless of whether it is classified as *nichsei tzon barzel* or *nichsei m'log*. If she dies in her husband's lifetime, her husband inherits everything.

Therefore, if the woman sold property classified as *nichsei m'log* after she married, even if she became the owner of that property before she became consecrated, her husband may expropriate the income from that property from the purchasers throughout his wife's lifetime. He may not, however, expropriate the land itself, for he has no right to the land itself, if it is classified as *nichsei m'log*, until his wife dies.<sup>14</sup>

If she dies in his lifetime, he may expropriate the land from the purchasers<sup>15</sup> without paying them for it.<sup>16</sup> If the actual money that [the woman] took from the purchasers still exists, however, it must be returned to the purchasers. The husband cannot say: "Perhaps this money was found [by my wife]" [and on that basis take it as his own].<sup>17</sup>

8. When does the above apply? With regard to property about which the husband knew.<sup>18</sup> When, however, a woman inherits property in another

10. The rationale is that she is not entitled to a *ketubah* (Chapter 11, *Mal'achah* 4). Moreover, since she is not responsible for her actions, she has no right to transfer her property.

11. Although the Ra'avad objects to this ruling, the *Shulchan Aruch* (*Even HaEzer* 90:3) quotes the Rambam's view.

12. Chapter 3, *Mal'achah* 13.  
13. See Chapter 14, *Mal'achah* 8.

14. The advantage in the purchaser's continuing to own the land itself is that if the husband dies before his wife, her sale is binding, and the land becomes the purchaser's property. From this time onward, he is entitled to benefit from the land as well.